

The UNAIDS Guide

to the United Nations Human Rights Machinery

for AIDS service organizations,
people living with HIV/AIDS,
and others working in the area
of HIV/AIDS and human rights.

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Foreword

UNAIDS is committed to human rights, to a multisectoral approach, and to support for nongovernmental organizations, AIDS Service Organizations, community-based organizations and people living with HIV/AIDS in their work with HIV/AIDS. In this context, UNAIDS hopes that this guide will be a useful asset to existing, planned and future human rights activities; that it will result in more documentation of HIV-related human rights issues and more advocacy and action to counter HIV-related discrimination; that it will encourage the United Nations human rights bodies to take on and maintain HIV-related issues under their respective mandates; and that it will assist States to develop a positive policy and legal framework for effective HIV/AIDS prevention and care programmes.

A handwritten signature in black ink, appearing to read 'P. Piot', with a stylized, flowing script.

Peter Piot
Executive Director, UNAIDS

Introduction

Objective: This guide aims at assisting AIDS Service Organizations (ASOs), networks of people living with HIV/AIDS and other AIDS activists to access the United Nations human rights bodies and to be critical players in keeping HIV/AIDS as a human rights issue firmly on the agendas of these bodies.

People affected by HIV/AIDS seek to live successfully with infection, disease and death. They also face discrimination, stigma and human rights abuses. Furthermore, individuals and groups in society who already suffer discrimination and lack of human rights protection are both more vulnerable to becoming infected and less able to cope with the burdens of HIV/AIDS. Significantly, the success of various HIV/AIDS interventions has been shown to be directly proportional to the degree to which human rights are promoted and protected in the context of these interventions. These realities, demonstrated time and again over the course of the HIV/AIDS epidemic, make clear that the protection and promotion of human rights must be an integral component of all responses to the epidemic.

The protection and promotion of human rights must be an integral component of all responses to the HIV/AIDS epidemic.

It has been recognized that the response to HIV/AIDS must be multisectoral and multifaceted, with each group contributing its particular expertise and comparative advantage. This has been the guiding principle behind the establishment of UNAIDS. It is the philosophy behind the partnership between UNAIDS, its cosponsors (UNICEF, UNDP, UNFPA, UNESCO, WHO, and the World Bank) and their many governmental and nongovernmental partners. In this multi-sectoral response, it is necessary to form partnerships with the groups that have the mandate and expertise to ensure that human rights are protected. These are the human rights bodies of the United Nations and those non-

governmental organizations (NGOs) that are concerned with human rights.

United Nations human rights bodies and human rights NGOs are essential to the protection of HIV-related human rights because they can:

- ◆ understand the HIV/AIDS issues from a human rights perspective;
 - ◆ develop and articulate human rights norms relating to HIV/AIDS;
 - ◆ monitor HIV-related human rights violations;
 - ◆ advocate for State compliance under the relevant conventions.
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United Nations human rights bodies and human rights NGOs have already done important work in the context of HIV/AIDS. However, it is necessary to ensure, strengthen and sustain their involvement and to enable them to function as effectively as possible in terms of HIV/AIDS issues. For this to occur, they must have more information on human rights abuses related to HIV and receive more advocacy concerning the protection of human rights related to HIV. AIDS Service Organizations (ASOs), networks of people living with HIV/AIDS (PWAs) and other AIDS activists are those best placed to provide information and advocacy to United Nations human rights bodies and to human rights NGOs that have not yet taken on the issue of HIV/AIDS.

"Though some United Nations human rights bodies have integrated HIV into their mandates and have done important work in this area, most have not, or continue to see it only as a health issue."

Peter Piot
From Statement before the United Nations
Commission on Human Rights,
52nd session, 1996

To accomplish this, however, ASOs, networks of PWAs, and other AIDS activists must have more

presence in such human rights fora, must work effectively with human rights NGOs, must assess their knowledge and experience in terms of human rights, and must disseminate this knowledge and experience through advocacy and information-sharing.

It is important to note that the effectiveness of the United Nations human rights bodies depends very much on the dissemination of accurate and substantial information. In this respect, NGOs, ASOs and PWAs are valuable sources of such information. Furthermore, ASOs and NGOs at national level are in the best position to undertake fact-finding and human rights monitoring, and to advocate for HIV-related human rights through appropriate channels such as the United Nations which has mechanisms by which to monitor national compliance with human rights norms.

ASOs and AIDS activists can be instrumental in putting the issue of HIV/AIDS firmly on the agendas of United Nations human rights bodies and in keeping it there. In doing this, the roles that ASOs and AIDS activists can play in exposing HIV-related human rights concerns are many. As will be described in this guide, these roles involve input into the United Nations Commission on Human Rights and Sub-Commission on Prevention of Discrimination and Protection of Minorities, and to the United Nations Committees overseeing compliance with relevant human rights treaties. This input may take the form of general advocacy on HIV/AIDS; information on specific themes such as how HIV/AIDS affects women and children; country-specific information; or information related to specific human rights violations. This input can be either direct or through others, as is shown later.

In addition to general advocacy with the Commission and Sub-Commission, the provision of detailed and specific information on HIV-

related issues to treaty bodies will enable United Nations Committees to address particular areas of concern with States that are under the consideration of these bodies. NGO representatives are usually present during such discussions. Governments are required to respond to the questions asked by the Committees, and these dialogues are officially put on record. Answers given by the States can therefore be used by NGOs and ASOs as a basis for discussions with their governments on HIV-related issues. Furthermore, the outcome of the sessions may be covered by the media, thus making information available to the public at large.

ASOs can be crucial actors in the process of putting HIV-related human rights issues firmly on the agendas of United Nations human rights bodies.

As will be discussed, ASOs which are interested in reporting on HIV-related human rights violations may also use the procedures of the Human Rights Commission ("1503" procedure for a "consistent pattern of violations") and the Human Rights Committee (Optional Protocol for individual human rights violations), although for this purpose a **consultative status with the United Nations Economic and Social Council** is usually required.

Section I of this guide presents a brief overview of the ways in which human rights relate to HIV/AIDS. Section II describes some of the most relevant United Nations human rights bodies, such as the Commission on Human Rights and various Committees, as well as their methods of work and NGO input into their activities. Section III describes further strategies; while Section IV provides relevant background materials contained in a number of annexes.

Section I

Relationship between human rights and HIV/AIDS

Before turning to the United Nations human rights machinery, and how it can be utilized, the following paragraphs briefly summarize the ways in which human rights and HIV/AIDS are linked.

Human rights relevant to HIV/AIDS

Which human rights are relevant to HIV/AIDS? Some of the most important rights are the following: the rights to non-discrimination and equality before the law; life; health; liberty and security of the person; freedom of expression; freedom from inhuman or degrading treatment or punishment; freedom of movement; privacy; to marry and found a family; education; work; an adequate standard of living; social security, assistance and welfare; to seek and enjoy asylum; to share in scientific advancement and its benefits; to participate in public and cultural life. In addition, the rights of the child and the rights of women are expressed in human rights conventions that explicitly address the rights of these groups.

Application of the relevant human rights

In all situations, the protection of human rights is essential to safeguard human dignity and to ensure a humane existence for individuals and societies. In the case of HIV/AIDS, the protection of human rights accomplishes these overall goals. It also specifically reduces vulnerability to infection by HIV (i.e. prevents transmission) and reduces the impact of HIV/AIDS on those already infected or otherwise affected (i.e. protects the dignity of people affected by HIV/AIDS and enables them to cope with HIV/AIDS).

Reducing vulnerability to infection by HIV

Prevention of transmission depends on people being provided with information and support for avoiding infection, practising safer sex and other safe behaviour, and acting responsibly. The

protection of human rights helps to create the supportive atmosphere that is necessary to encourage people to come forward, to help them benefit from HIV education and services, and to enable them to change their behaviour. Coercive measures not only violate human rights but also subvert this process.

To protect the dignity of those in need of HIV-related health sources and to prevent the spread of infection, the following rights are relevant :

- ◆ the right to non-discrimination (so that people are protected against mistreatment if they seek help or are HIV positive);
- ◆ the right to privacy (so that people are protected against mandatory testing and their HIV status is kept confidential);
- ◆ the right to education and information (so that people are given access to education and information on HIV/AIDS prevention);
- ◆ the right to health (so that people are given access to services for health care and prevention, including services for sexually transmitted diseases, condoms, and clean injection equipment).

Many groups in society already suffer discrimination or disadvantage because of their social, ethnic, racial or legal status. This often means they have less access to education, information and health care. Even if they do have access to information and health care sources, they may not be able to take advantage of it, because of the discrimination they face with regard to economic opportunity, political and social power, or gender and sexual relations. Such disadvantages render them more vulnerable both to infection with HIV and to the impact of HIV/AIDS. Depending on the situation in particular countries and the status of particular groups, the disadvantaged may include women, children, minorities, indigenous people, poor people, migrant workers, refugees, sex workers,

drug users, men who have sex with men, and prisoners.

Human rights protection should be ensured for such groups so that they have equal access to information and education on HIV prevention, health care, means of prevention such as condoms and clean injection equipment, economic opportunities and social support. They should also have equality in social, political and sexual relations. This would help enable them to avoid infection, and to cope if they become infected. Human rights protection should also enable women, children, sex workers and prisoners to avoid coerced sex, including unsafe sex. Finally, such groups should be able to participate equally and meaningfully in public life, including the formulation and implementation of HIV/AIDS policy that affects them.

Reducing the impact of HIV/AIDS

A number of rights protect the dignity of those already **living with HIV/AIDS or otherwise affected** by them and empower them and their families to cope with HIV/AIDS by maintaining their health, employment, standard of living and quality of life. These rights are:

- ◆ the right to non-discrimination and equality before the law (so as not to be mistreated on the basis of health status, including HIV status);
- ◆ the right to liberty (so as to be protected against imprisonment, segregation or isolation, if HIV positive);
- ◆ the right to health (so as not to be denied health care and treatment because of HIV status);
- ◆ the right to education (so as not to be dismissed from school, if HIV positive);
- ◆ the right to work (so as not to be fired or not recruited, if HIV positive);
- ◆ the right to marry and found a family (so as not to be denied marriage or required to undergo abortion or sterilization, if pregnant and HIV positive);
- ◆ the right to social security, assistance and welfare (so as not to be denied these benefits, if HIV positive);

- ◆ the right to freedom of movement (so as not to be subject to travel restrictions, if HIV positive);
- ◆ the right to seek and enjoy asylum, if HIV positive.

Human rights restrictions

It should be pointed out that some human rights may be restricted in the name of **public health** or to **protect the rights of others**. These reasons are often cited as the basis for human rights restrictions in the context of HIV/AIDS. However, human rights may be restricted on these grounds only if the restriction is prescribed by law, is necessary, and takes place in a democratic society.

Human rights may be restricted only when:

- ◆ the restriction is prescribed by law (not arbitrary);
 - ◆ the restriction is necessary (pressing social need);
 - ◆ the restriction takes place in a democratic society (product of consensus).
-

Furthermore, the restriction must be **proportional** in achieving the aim, it must be **the least restrictive** means available, and it must **actually** achieve the aim. Any restrictions on human rights in the context of HIV/AIDS should be analysed in these terms. In most cases, such restrictions not only fail to achieve public health goals, but also undermine them. Furthermore, restrictions are seldom proportional and are often not the least restrictive means available.

This summary by no means addresses all human rights related to HIV/AIDS. The issues are complex. Rather, it is an attempt to give a brief overview of the importance of human rights in the context of HIV/AIDS. More information on the relationship between human rights and HIV/AIDS can be found in Annex V which gives details of more HIV/AIDS issues that arise under human rights instruments.

States' obligation to respect and promote human rights

States can be obligated to respect and protect human rights in a number of ways – including

moral, political and/or legal obligations. As members of the United Nations, States are obligated to promote and encourage "respect for human rights and for fundamental freedoms for all without discrimination as to race, sex, language, or religion" (United Nations Charter, Chapter 1, Article 1(3)). States pledge to take joint and separate action to achieve this aim. Furthermore, in 1948, the United Nations General Assembly adopted the Universal Declaration of Human Rights. Though this is a declaration, and not a treaty signed by States, it has come to bind all States as a matter of customary international law.

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Universal Declaration of Human Rights, Article 2

There are also various human rights treaties or conventions that States have signed and to which they are legally bound. These include the International Covenant on Civil and Political Rights; the International Covenant on Economic, Social and Cultural Rights; the Convention on the Elimination of All Forms of Discrimination against Women; and the Convention on the Rights of the Child. There are also regional human rights treaties.

Finally, there are public undertakings by States such as those expressed in the documents emanating from United Nations conferences (such as the World Conference on Human Rights, Vienna, 1993; the International Conference on Population and Development, Cairo,

1994; the Social Summit, Copenhagen, 1994; and the Fourth World Conference on Women, Beijing, 1995) and in documents emanating from other conferences (such as the Paris AIDS Summit, 1994).

The following material describes the United Nations human rights machinery that has been set up to promote and protect the moral and legal obligations enshrined in human rights instruments. This machinery comprises fora in which human rights issues are debated and in which States are held accountable in terms of human rights norms. This human rights machinery and the human rights perspective are two important vehicles by which to address HIV/AIDS issues. They are not the only vehicles, of course, and they have their limitations. For instance, many States fail to meet their human rights obligations, demonstrate an indifference to public opinion regarding their human rights records, do not understand or refuse to consider the relevance of human rights to HIV/AIDS, inappropriately take coercive measures in the name of public health, and/or do not have anti-discrimination or other national legislation to protect against abuse by the public and private sector.

Thus, there is a great need for advocacy, for monitoring of abuses, and for articulation and clarification of human rights standards. The intention of this guide is to encourage greater involvement in these activities; more interaction between the international human rights machinery of the United Nations and those involved in the HIV-related human rights situation at country level where the protection and promotion of the human rights of those affected by HIV/AIDS must occur; and, finally, true and effective partnership among human rights activists and AIDS activists around the world.

Section II

General overview of the main United Nations human rights bodies

The United Nations human rights bodies are of two types – those which derive their existence from relevant provisions of the United Nations Charter and those which derive their existence from United Nations human rights treaties. The **Charter-based bodies** are the **Commission on Human Rights** and its **Sub-Commission on Prevention of Discrimination and Protection of Minorities**. They are the main United Nations bodies with a general and broad mandate to cover all areas of human rights. There is also the **Commission on the Status of Women** which focuses on issues related to the human rights of women.

Key **treaty-based bodies** directly relevant to HIV/AIDS are the **Human Rights Committee**, established by the provisions of the International Covenant on Civil and Political Rights; the **Committee on Economic, Social and Cultural Rights**, established by the provisions of the International Covenant on Economic, Social and Cultural Rights; the **Committee on the Elimination of Discrimination against Women**, established by the provisions of the Convention for the Elimination of All Forms of Discrimination against Women; and the **Committee on the Rights of the Child**, established by the Convention on the Rights of the Child (see Annex I for the full texts of these instruments).

CHARTER-BASED BODIES

Commission on Human Rights and the Sub-Commission on the Prevention of Discrimination and Protection of Minorities

The *Commission* is the political organ of the United Nations human rights system. It serves as a forum where governments, international organizations, NGOs and individual experts discuss a wide range of human rights violations and other

issues of concern. The Economic and Social Council resolution 9(11) of 1946 directed the Commission to prepare recommendations and reports regarding the international bill of human rights and, *inter alia*, any other matters concerning human rights.

The Commission currently has 53 members who are selected on the basis of equitable geographical distribution. They have been appointed by their respective governments to represent those governments and serve for a term of three years. Although the effectiveness of the Commission may be influenced by the political climate in which it operates, its decisions and actions can have a direct impact on national policies precisely because of its political nature.

As the Commission may deal with any matter relating to human rights, its functions are manifold: drafting international instruments; preparing recommendations; conducting studies; monitoring existing international human rights standards; investigating allegations concerning violations of human rights and handling communications relating to such violations; and providing advice and technical services to countries in need of assistance in the area of human rights protection.

The *Sub-Commission*, a subsidiary body of the Commission on Human Rights, functions mainly as a human rights "think tank" (i.e. by initiating studies as requested by the Commission). The Sub-Commission is to a large degree autonomous, although all its major decisions need to be approved by the Commission¹.

The Sub-Commission is composed of 26 independent experts, nominated by their governments and elected by the 53 States making up the Commission on Human Rights. They serve

¹ Human Rights Fact Sheet, No.1, page 7, United Nations Centre for Human Rights.

for a period of four years. The Sub-Commission proposes new human rights standards, initiates in-depth studies, and identifies human rights violations across the globe.

Organization of work

The *Commission* meets annually for six weeks in Geneva. Resolutions are drafted on both country and thematic issues and presented to the Commission for adoption. Although only the 53 members are allowed to vote, non-member States may be invited to participate in discussions on particular matters of concern to them. Specialized agencies, other inter-governmental organizations, and NGOs in consultative status with the Economic and Social Council may also make statements (for details on consultative status, see below).

The *Sub-Commission* meets annually for four weeks in Geneva. During the session, its members discuss various human rights issues, as well as resolutions presented to the Sub-Commission for adoption. The session is also attended by observers from governments, specialized agencies and other intergovernmental organizations, and NGOs in consultative status with the Economic and Social Council. Many observers draft resolutions and lobby Sub-Commission members for their adoption. The Sub-Commission reports back to the Commission on the work done during each session.

Activities of the Commission and the Sub-Commission in the field of HIV/AIDS

The *Commission* has been active for a number of years in strengthening the protection of human rights as they relate to HIV/AIDS.

The Commission has adopted resolutions that underline the need to avoid discrimination against and to protect those living with HIV/AIDS, as well as to address the vulnerability of various groups. These resolutions, which call on States to take all necessary measures to achieve the various aims, carry a certain political weight since they are sponsored by States rather than by independent experts (for document references see Annex III).

Recent Commission resolutions have called *inter alia* for the United Nations Secretary-General to

submit a report on international and domestic measures taken to protect human rights in the context of HIV/AIDS; for States to review their legislation, practices and policies to ensure that they are in conformity with international human rights standards and norms; and for the special protection of vulnerable groups.

Importantly, these resolutions have stated that "the term 'or other status' in non-discrimination provisions in international human rights texts should be interpreted to cover health status, including HIV/AIDS", and have confirmed that "discrimination on the basis of HIV/AIDS status, actual or presumed, is prohibited by existing human rights standards".²

"...discrimination on the basis of AIDS or HIV status, actual or presumed, is prohibited by existing international human rights standards, and that the term or other status in non-discrimination provisions in international human rights texts should be interpreted to cover health status, including HIV/AIDS."

Commission on Human Rights, 52nd session, 1996
Resolution on HIV-related discrimination

The *Sub-Commission* has had HIV-related human rights issues on its agenda since 1989. Its work in the area of HIV/AIDS included the appointment of one of its experts, Mr Luis Varela Quiros, as a Special Rapporteur to undertake a study of the problems and causes of discrimination against people living with HIV/AIDS. The Special Rapporteur's mandate was completed in 1992 with the submission of his conclusions and recommendations (for document references, see Annex III).

NGO input into the work of the Commission and the Sub-Commission

Under Article 71 of the United Nations Charter, the Economic and Social Council of the United Nations may make appropriate arrangements for consultation with NGOs that are concerned with matters within the Council's competence. Such arrangements have been made with several hundred international organizations that have *consultative status* with the Economic and Social Council.

² UN Commission on Human Rights resolution 1996/44.

For more information or for documentation on the Commission and Sub-Commission, contact:

Secretariat of the Commission
and Sub-Commission
Centre for Human Rights, Palais des Nations,
1211 Geneva 10, Switzerland
Tel: (+41-22) 917 3988
Fax: (+41-22) 917 0212

It is important to note that in July 1996 the Economic and Social Council adopted a resolution in which it recognizes the emergence of a large number of national and regional organizations. It also stated that consultative relationships may be established with **international, regional, subregional and national** organizations.

Consultative Status with the Economic and Social Council

Consultative status enables NGOs to send observers to all public meetings of the Council, its commissions, sub-commissions and other subsidiary bodies, including the United Nations human rights bodies described above. Furthermore, NGOs have the opportunity to engage officially in consultation with the United Nations Secretariat on issues of mutual concern.³ It is important for the purposes of this guide that NGOs in consultative status with the United Nations Economic and Social Council may attend the sessions of the Commission and Sub-Commission as observers. The sessions are prime opportunities for NGOs to promote issues of concern, to lobby members of both bodies for support of draft resolutions, and to strengthen collaboration with other NGOs. More than 200 NGOs are usually represented at the sessions.

As observers with consultative status, NGOs may give oral presentations or submit written statements on human rights issues in their particular field of interest. They may also provide input into, and sometimes prepare, draft resolutions and lobby members of the Commission or Sub-Commission for support; and they may organize briefings and consultations during the sessions to which observers and members of the Commission or Sub-Commission are invited. Such *ad hoc* information meetings provide NGOs, Com-

mission and Sub-Commission members, IGOs and government representatives with an opportunity to discuss informally various human rights issues and areas of interest.

NGOs with consultative status are categorized in three groups:⁴

- ◆ *Category I:*
NGOs which have a basic interest in most of the activities of the Council
 - ◆ *Category II:*
NGOs which have a special competence but which are concerned with only a few of the Council's activities
 - ◆ *Category III:*
NGOs which can make occasional and useful contributions to the Council's work. Such NGOs are placed on a roster for *ad hoc* consultations
-

Members of the International Council of AIDS Service Organizations (ICASO), which has consultative status with ECOSOC, have attended sessions of the Commission and its Sub-Commission. Their activities have included:

- ◆ providing input into the drafting of the resolution on HIV-related discrimination;
 - ◆ participating in briefings on HIV/AIDS and human rights for Commission and Sub-Commission members and observers;
 - ◆ lobbying various human rights NGOs;
 - ◆ making oral statements during the sessions.
-

Only NGOs and ASOs with consultative status may take the floor at the Commission or Sub-Commission to make oral presentations or may submit written statements for circulation among participants, including government observers.

The active participation of ICASO in the activities of both charter bodies has been successful in bringing HIV/AIDS as a human rights issue to the attention of both bodies, as well as to observers present, including the representatives of governments and human rights NGOs.

³ Human Rights Fact Sheet No.1, page 25.

⁴ *Idem.*

Non-consultative status

Although having consultative status with the Economic and Social Council clearly has its advantages, not having such status does not automatically rule out participation.

Representatives of NGOs and ASOs that do not have consultative status may attend sessions if invited as part of the delegation of an NGO with consultative status. They may also speak under the rubric of the NGO with consultative status if this has been agreed between the two NGOs.

It should be noted, however, that NGOs with consultative status attending the sessions are allowed to make only one intervention per agenda item and usually already have statements prepared for presentation under those items that relate to their particular mandates and are of particular interest to them. Therefore, even if such NGOs agree to invite ASOs/NGOs without consultative status to attend the sessions under their rubric, it will not always be possible to use their speaking time. In this case, ASOs may wish to consult NGOs with consultative status in order to have HIV-related issues included in their prepared statements, as appropriate.

In general, ASOs wishing to attend the sessions and/or to address specific issues may want to contact ICASO since it already has consultative status. They can discuss with ICASO the possibility of attending under its rubric or including specific issues in its statements.

Human rights reporting to the Commission and the Sub-Commission under the "1503" procedure

Individuals, NGOs and ASOs may submit complaints about human rights violations. Officially these are called human rights **communications** and may be submitted under the "1503" procedure. Consultative status is not needed for the submission of communications (for more details on communication procedures, see Section IV, Annex 4).

Under the "1503" procedure, communications may be admitted from individuals or groups who claim to be subjected to human rights violations. However, such communications must indicate a **consistent pattern of gross violations of human rights**, i.e. situations affecting a large number of

people over a protracted period of time. Thus, this procedure does not deal with violations of an individual's human rights as such (for individual human rights violations, see Human Rights Committee).

A working group of the Sub-Commission meets annually for two weeks to consider all communications, and subsequently selects those which indicate a consistent pattern of gross human rights violations. Selected communications are then passed on to the Sub-Commission for further consideration before bringing the relevant communications to the attention of the Commission on Human Rights. In this final phase, the Commission assesses the communications and determines whether a thorough study is necessary, with a report and recommendations to the Economic and Social Council; or whether an *ad hoc* committee should be appointed to make an official investigation. However, in the latter case, the consent of the State where the violations are alleged to have happened is required.

Communications for submission under the "1503" procedure should be sent to:

Communications Section
Centre for Human Rights, Palais des Nations
1211 Geneva 10, Switzerland
Tel: (+41-22) 917 3988
Fax: (+41-22) 917 0212

Working groups, Special Rapporteurs and Representatives appointed by the Commission and the Sub-Commission

Both the Commission on Human Rights and the Sub-Commission on Prevention of Discrimination and Protection of Minorities have created a number of mechanisms for monitoring compliance by States of international human rights standards and for reinforcing the existing treaty-based monitoring mechanisms. These comprise a number of subsidiary bodies, called "working groups", and various thematic and country experts called "special rapporteurs" and "representatives". These bodies and experts investigate country-specific or thematic human rights problems through fact-finding missions and studies. They report back to the Commission or Sub-Commission, as appropriate.

Working groups may be inter-sessional (meeting between sessions of the bodies they are affiliated with), pre-sessional (meeting just before their main bodies), or sessional (meeting during the sessions of the main bodies). In addition to the working groups set up by the Commission and Sub-Commission, a number of treaty-based bodies have their own working groups (see treaty-based bodies below).

Working groups and special rapporteurs investigate country specific or thematic human rights problems through fact-finding missions and studies.

NGO input into the work of the Working Groups, Special Rapporteurs and Special Representatives

NGOs are very active during the meetings of the various working groups. In general, only NGOs with consultative status are represented at those meetings, although an exception has been made for NGOs attending the meetings of the Working Group on Indigenous Populations. NGOs attending the working groups have the opportunity to make oral statements, as well as to lobby government delegations. An example of a current working group that might be of relevance to HIV/AIDS is that on arbitrary detention, to the degree such detention is based on HIV status. One strategy might be to lobby governments, the Commission or the Sub-Commission for the establishment of a working group that deals with HIV/AIDS issues.

With regard to Special Rapporteurs and Special Representatives, NGOs (both with and without consultative status) may submit relevant, particularly country-specific, information on human rights issues. The work of a number of current Special Rapporteurs has relevance to HIV/AIDS, namely those dealing with arbitrary executions; cruel, inhuman or degrading treatment; religious intolerance; freedom of opinion and expression; sale of children and child prostitution; and elimination of violence against women. It should also be noted that Special Rapporteurs are generally mandated to receive information on individual cases of alleged violations of human rights and may take up such cases with requests for clarification from the governments

concerned. Though the mandate of the Special Rapporteur on HIV/AIDS ended in 1992, it is conceivable that as the epidemic progresses another Special Rapporteur with a different and/or more extended mandate could be appointed if political and financial support is identified.

For a list of working groups, Special Rapporteurs and Representatives, see Annex II. This list will change as mandates expire and new ones are created.

Commission on the Status of Women

The *Commission on the Status of Women* was established by the Economic and Social Council in 1946 in order to prepare reports and recommendations to the Council on promoting the rights of women, and to make recommendations to the Council on urgent issues of concern in the area of the rights of women which require direct attention, and to develop proposals to give effect to such recommendations.

The Commission comprises representatives of 32 United Nations Member States who are selected by the Council for four-year terms. It meets annually for a session of three weeks in New York.

For more information or documentation on the Commission on the Status of Women, contact:

Commission on the Status of Women
c/o Division for the Advancement of Women
2 United Nations Plaza, New York
New York, 10017, USA

Activities of the Commission on the Status of Women in the field of HIV/AIDS

At its 33rd session in 1989, the Commission presented a report on the effects of AIDS on the advancement of women. The report discussed the effects of AIDS on women in relation to the objectives of the Nairobi Forward-looking Strategies (equality, development and peace).⁵ It also contained conclusions and recommendations for consideration by the Commission.

⁵ The Nairobi Forward-looking Strategies were adopted at the World Conference to Review and Appraise the Achievements of the United Nations Decade for Women: Equality, Development and Peace, 15-26 July 1985.

TREATY BODIES

Under each human rights treaty, as stated above, a treaty body has been created in order to monitor State compliance with the treaty in question. Such bodies are called Committees. The terms of reference of these Committees are described in the relevant treaties, as is the nature of State obligations to comply with the treaty and to submit **State reports** on national compliance with the rights and freedoms laid down by the treaties. Usually, States must report two years after acceding to the treaty and then every five years thereafter. Thus, States' reports are not constant but only periodical, making it easier for NGOs, ASOs and IGOs to have input both into the reports, when possible, and into the work of the Committee which examines the report and engages in a dialogue about the situation with the State concerned.

As they monitor State compliance, the Committees can help address HIV-related human rights issues by emphasizing the importance of the protection of HIV-related human rights, by further elaborating HIV-related standards under the treaties, and by increasing States' understanding of and commitment to these standards. Thus, these Committees are critical fora in which to advocate for the protection and promotion of HIV-related human rights at **national** level.

Committees have been created by human rights treaties in order to monitor State compliance with the treaty in question.

ASOs and networks of people living with HIV/AIDS are crucial actors in the dissemination of relevant HIV-related human rights information to the Committees.

Preparation of State reports

NGOs can play a very important role at national level by submitting, where possible, information to governments in their preparation of State reports for consideration by the Committees. An increasing number of countries rely on such information from NGOs who have often formed national coalitions which deal with specific issues (e.g. children, women, minorities).

As ASOs and networks of people living with HIV/AIDS usually have the most information relevant

to HIV-related human rights issues, it is crucial that they become involved in this process. One strategy is to establish contacts with international and national human rights NGO coalitions who have already organized themselves for input into these reports. Though this may involve a great deal of work, it occurs only every five years when each country report is due to a particular Committee. The schedule for submission of reports can be obtained from the Committee Secretariats well in advance of the due date (for more details, see Relevant Treaty Bodies below and Section III).

Review of State reports by the Committees

The Committees hold pre-sessional working groups before each session to review the State reports are reviewed. At the pre-sessional working groups, governments are not present but national and international NGOs are invited to attend and provide additional information through written or oral statements on the State reports. These working groups provide a forum for informal discussion on the State reports between Committee members, specialized agencies and NGOs.

At the plenary session of the Committees, when governments are present, NGOs are invited to attend but cannot make interventions as the session is reserved for discussion between the Committees and the State under consideration. Plenary sessions are often used by NGOs to meet with State representatives and to discuss matters of concern outside official meeting hours.

Thus, there is a three-fold review process of the **State reports** by the Committees:

- ◆ analysis of the State report by the pre-sessional working group, during which the Committee draws up questions to put to the States concerned on the basis of the report and NGO and IGO information;
- ◆ the State's written reply to the list of questions before the plenary session;
- ◆ a dialogue between the Committee and State representatives at the plenary session in order to examine the situation in the country.

It is important to note that consultative status is not needed for NGO and ASO participation in the activities of the Committees. The Committees consider information from all NGOs with a special interest in the areas covered by these bodies.

Submission of information

ASOs may submit HIV-related information directly to the secretariats of the various Committees. However, information and/or reports must be submitted 3-6 months prior to the pre-session working group meetings, and certain criteria must be met. ASOs which intend to present oral information are subject to the Committees' rules and regulations for NGOs and should contact the respective secretariats (see addresses below).

The relevant Committees

Human Rights Committee

The **Human Rights Committee** is responsible for overseeing States' compliance with their obligations under the International Covenant on Civil and Political Rights and its Optional Protocol. This Committee comprises 18 members who are nominated by their respective governments and are elected by the States Parties to the Covenant but who serve in their personal capacities. The Committee currently meets twice a year in Geneva and once a year in New York, in order to deal with the backlog of reports.

As the Human Rights Committee deals specifically with civil and political rights, including the rights to life and privacy, ASOs wishing to report on HIV/AIDS issues related to these rights should consult Annex V for detailed descriptions of the relevant issues under the articles of the International Covenant on Civil and Political Rights.

Under the Optional Protocol of the Covenant on Civil and Political Rights, the Human Rights Committee may accept **complaints of individual human rights violations** only if such violations have taken place in a State which has ratified both the Covenant and its Protocol. The submission of complaints is subject to a number of criteria. The complaint must be submitted by the individual himself/herself, or, if it seems that the individual in

question is not able to submit a complaint, by another person who can justify his/her authority to act on behalf of the alleged victim. A third party may not act on behalf of individuals whose rights have been violated. It is also important to note that violations reported should relate only to rights and freedoms covered by the International Covenant on Civil and Political Rights, namely civil and political rights.

Other criteria for submission of complaints, either by individuals or groups whose rights have been violated, or by persons or groups acting upon behalf of those whose rights have been violated, can be found in more detail in Annex V. It should be borne in mind that it takes 6-12 months to decide whether a complaint is admissible and cases brought before the Committee may not have reached their final outcome even one or two years later, although in urgent cases this process may be accelerated.

Communications for submission under the Optional Protocol should be sent to:

Communications Section
Centre for Human Rights, Palais des Nations
1211 Geneva 10, Switzerland
Tel: (+41-22) 917 3962
Fax: (+41-22) 917 0099

Committee on Economic, Social and Cultural Rights

The **Committee on Economic, Social and Cultural Rights** is responsible for overseeing State compliance with the International Covenant on Economic, Social and Cultural Rights. It consists of 18 experts who serve in their individual capacity and have been elected by States Parties to the Covenant on the basis of equitable geographical representation. The Committee meets once or twice a year in Geneva, the number of sessions depending on the backlog of reports.

NGO input has become an important element in the work of this Committee. The Committee deals specifically with economic, social and cultural rights, including the rights to health care, employment, education and housing. ASOs wishing to report on HIV/AIDS issues relating to these rights should consult Annex V for a detailed description of the issues that are relevant to the

articles of the International Covenant on Economic, Social and Cultural Rights.

Committee on the Rights of the Child

The **Committee on the Rights of the Child** is responsible for overseeing State compliance with the Convention on the Rights of the Child. It comprises 10 independent members who are all experts in children's issues; they include medical doctors, child care specialists, lawyers, experts in juvenile justice, and experts with an NGO background. The Committee meets 2-3 times a year in Geneva.

Under Article 45, the Convention on the Rights of the Child specifically provides for United Nations specialized agencies, UNICEF and other competent bodies to provide advice and information to the Committee on the Rights of the Child. The term "other competent bodies" under Article 45 has traditionally been interpreted as including NGOs. Thus, the Committee is unique in the sense that NGOs are recognized as official partners, and in its consideration of State reports the Committee relies heavily on information submitted by such organizations. Information from NGOs is well coordinated within the countries reporting and is of considerable assistance to the Committee. Input is usually compiled and provided by the relevant national children's NGO coalition, although NGOs may also submit information individually.

The NGO Group for the Convention on the Rights of the Child can be contacted at the following address:

NGO Group for the Convention on the Rights of the Child
c/o Defence Children International (DCI)
P.O. Box 88
1211 Geneva 20, Switzerland
Tel: (+41-22) 734 0558
Fax: (+41-22) 740 1145

Country information from national NGOs and ASOs may be channeled through the international **NGO Group for the Convention on the Rights of the Child**, based in Geneva, which functions as a coordinator for national NGO coalitions. Its members include organizations such as the International Save the Children Alliance, the International Council of Women,

and the Inter-African Committee on Traditional Practices. Furthermore, it serves as a link between national NGOs and the Committee. ASOs wishing to report on HIV/AIDS and children/families should contact the NGO Group in order to receive contact addresses of national human rights counterparts.

ASOs wishing to report on HIV/AIDS and children/families should consult Annex V for a detailed description of the issues that are relevant to the articles of the Convention on the Rights of the Child.

Committee on the Elimination of Discrimination against Women

The **Committee on the Elimination of Discrimination against Women (CEDAW)** is responsible for overseeing State compliance with the Convention on the Elimination of All Forms of Discrimination against Women. It comprises 23 experts who have been selected from a list of experts in this field and who serve in their personal capacity. The Committee on the Elimination of Discrimination against Women meets twice a year for two weeks in New York. The Committee is serviced by the Division for the Advancement of Women, which is located in New York. Once a year, the Committee reports to the General Assembly through the Economic and Social Council on its activities.

At its 9th session in 1990, the Committee adopted General Recommendation No.15 on "avoidance of discrimination against women in national strategies for the prevention and control of acquired immunodeficiency syndrome (AIDS)". This recommended, *inter alia*, that "programmes to combat AIDS should give special attention to the rights and needs of women and children, and to the factors relating to the reproductive role of women and their subordinate position in some societies which make them especially vulnerable to HIV infection". It also recommended that "all States parties include in their reports under article 12 (right to health care) of the Convention information on the effects of AIDS on the situation of women and on the action taken to cater to the needs of those women who are infected and to prevent specific discrimination against women in response to AIDS".

The Committee on the Elimination of Discrimination against Women has strong links with NGOs specializing in its field of interest. The **International Women's Rights Action Watch (IWRAP)** is a global network of individuals and organizations which assist the Committee in monitoring the implementation of the Convention. IWRAP functions as a conduit for passing on information gathered by local groups and reports back to such groups and others on the results of international monitoring. Information gathered is compiled in a report which is presented to the Committee to assist in its consideration of country reports.

ASOs wishing to report on HIV/AIDS and women's issues should contact IWRAP:

International Women's Rights ActionWatch/
WPPD, Humphrey Institute,
301, 19th Avenue South,
Minneapolis, MN 55455, USA

Annex V should be consulted by interested ASOs for further detailed description of the issues that are relevant to the articles of the Convention on the Elimination of All Forms of Discrimination against Women.

All treaty bodies may be contacted through the United Nations Centre for Human Rights. Example:

Human Rights Committee - Secretariat
UN Centre for Human Rights, Palais des Nations
1211 Geneva 10, Switzerland
Tel: (+41-22) 917 3962
Fax: (+41-22) 917 0099

The exception is CEDAW, which may be contacted at the following address:

CEDAW
c/o Division for the Advancement of Women
2 United Nations Plaza,
New York, New York, 10017,
USA

The four major treaty bodies that have been discussed were chosen because together they cover a wide area of human rights that are relevant to HIV/AIDS. However, other treaty bodies which may be of relevance in certain cases are **the Committee Against Torture** (for

instance with regard to HIV/AIDS in prisons) and **the Committee on the Elimination of Racial Discrimination** (for instance with regard to HIV/AIDS prevention and care/support issues relating to ethnic minority groups).

OTHER UNITED NATIONS HUMAN RIGHTS OFFICES

The High Commissioner for Human Rights

The post of High Commissioner for Human Rights is the principal organ responsible for human rights within the United Nations system. It was established by General Assembly resolution 48/141 of 20 December 1993.

ASOs that send information to and lobby the High Commissioner for Human Rights could help to raise political awareness with regard to HIV/AIDS in the field of human rights. This may be done by requesting the High Commissioner to include references to human rights issues relating to HIV/AIDS in statements, speeches and addresses at international conferences, and to request that the issues be addressed in bilateral meetings with governments and in fact-finding missions. The current High Commissioner for Human Rights is Mrs Mary Robinson. She may be contacted at the following address.

Mrs Mary Robinson
High Commissioner for Human Rights
United Nations Office at Geneva
Palais des Nations
1211 Geneva 10, Switzerland
Tel: (+41-22) 917 3134
Fax: (+41-22) 917 0245

The United Nations Centre for Human Rights

The United Nations Centre for Human Rights, located at the United Nations Office at Geneva, Switzerland, is the Secretariat Unit concerned with human rights issues. It provides secretariat and substantive services to the United Nations human rights bodies (with the exception of the Committee on the Elimination of Discrimination against Women, which is serviced by the Division for the Advancement of Women). Furthermore,

the United Nations Centre for Human Rights conducts, *inter alia*, research and studies on human rights, coordinates liaison with NGOs, prepares publications, and collects and disseminates information.

The United Nations Centre for Human Rights also provides, upon request by governments, advisory services and technical cooperation aimed at assisting in the development of societies that respect human rights standards. Programme components include human rights

training in the administration of justice, assistance in the development and strengthening of national human rights institutions, legislative review, etc.

ASOs, and especially those involved at national level, may wish to point out to their governments the need for legal awareness training in the field of HIV/AIDS and human rights targeted at policy-makers. Assistance could then be requested from the United Nations Centre for Human Rights.

Section III

Further strategies for successful ASO input into United Nations human rights activities

Partnership/mutual capacity-building with human rights NGOs

Human rights NGOs have been at the forefront of setting standards for human rights and of promoting and protecting those rights. The role and tasks of the United Nations in the field of human rights have therefore been greatly enhanced and facilitated by the generous input of NGO information and expertise. Many national and international NGOs are familiar with the mechanisms of the United Nations human rights machinery and use this knowledge to disseminate information on a wide range of issues. Some specialize in specific rights or thematic issues, such as women, children or torture. Others cover human rights violations in specific countries. Most NGOs specialize in the area of civil and political rights, rather than social, economic and cultural rights. However, with the constant evolution of human rights, an increasing number of NGOs deal with social/economic rights such as the rights to health, education, employment and housing.

The experience and expertise gained by human rights NGOs in monitoring/reporting/advocacy mechanisms for human rights should be utilized by ASOs, wherever and whenever possible.

ASOs which are, or plan to be, active in the area of HIV/AIDS-related human rights monitoring, reporting and advocacy should benefit from the experience and expertise gained by human rights NGOs. These ASOs should actively seek means for collaboration in the areas of information/expertise exchange, drafting national (country) reports, monitoring human rights violations, and in advocacy at the national, regional or international levels. Furthermore, it is crucial that ASOs take the initiative in bringing HIV/AIDS as a human rights issue to the attention

of human rights NGOs and establish ways of working in partnership on related human rights concerns.

Human Rights Internet can be contacted at the following address:

Human Rights Internet
8 York St., Suite 202
Ottawa, ON, K1N 5S6, Canada
Tel: (+1-613) 789 7407
Fax: (+1-613) 789-7414

Towards this end, ASOs should look at their own areas of expertise and related work, and assess their own needs in terms of planned human rights activities, in order to identify appropriate human rights organizations. To identify which national and international human rights organizations are most appropriate, ASOs should consult the directories of human rights NGOs that have been published by Human Rights Internet and which list human rights groups throughout the world.

Establishing/strengthening links with national and regional networks on HIV-related ethics, human rights and law

ASOs which have not already done so may wish to link up with existing national and regional networks on HIV-related ethics, human rights and law. These have so far been established in Africa, Asia and Latin America. Such networks create an important framework for action and change at regional, national and local levels. Their activities include exchange and dissemination of information, advocacy, legal rights training, legislative reform, representation, litigation and consensus-building. For some years, UNDP has actively promoted and supported such networks. UNAIDS intends to do so as well.

For more information on the networks, their members and their addresses, contact UNDP at:

HIV and Development Programme
UNDP
1 United Nations Plaza
New York, NY 10017
USA
Tel: (+1-212) 906 6337
Fax: (+1-212) 906 6336

Conclusion

This manual is intended to give a general overview of the United Nations human rights machinery most relevant to HIV-related human rights, and to explain how this machinery works. The manual focuses on bodies that have an interest in the issue HIV/AIDS, that have mandates best suited to address HIV-related human rights issues, and that are already active in this area.

As the Executive Director of UNAIDS stated in his closing remarks to the United Nations Commission on Human Rights in 1996, "A conspiracy of silence continues to surround

HIV/AIDS. This conspiracy keeps countless couples and communities unaware that HIV is in their midst. It allows governments to close their eyes to the urgency of action. It keeps HIV off the agendas on which it should be. It fuels an 'us/them' mentality in which the uninfected deny the existence, the human value and the dignity of the infected."

The United Nations human rights bodies are critical to breaking through this conspiracy of silence. They represent fora in which it is both appropriate and necessary to discuss HIV-related human rights issues with governments. Such fora must, however, include the voices and indeed the knowledge and experience of ASOs, networks of people living with HIV/AIDS and other AIDS activists. These in turn should form effective partnerships with the human rights NGOs already active with regard to the United Nations human rights bodies.

It is hoped that this guide will provide ASOs, networks of people living with HIV/AIDS and other AIDS activists with practical guidance to assist them in participating in the United Nations human rights fora and will strengthen the much-needed human rights response to HIV/AIDS.

Section IV

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Annex 1(a)

Universal Declaration of Human Rights

Preamble

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,

Whereas it is essential to promote the development of friendly relations between nations,

Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom,

Whereas Member States have pledged themselves to achieve, in co-operation

with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

Now, therefore,

THE GENERAL ASSEMBLY

Proclaims this Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

Article 1

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Article 2

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

Article 3

Everyone has the right to life, liberty and the security of person.

Article 4

No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

Article 5

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 6

Everyone has the right to recognition everywhere as a person before the law.

Article 7

All are equal before the law and are entitled without any discrimination to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Article 8

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

Article 9

No one shall be subjected to arbitrary arrest, detention or exile.

Article 10

Everyone is entitled in full equality to a fair, and public hearing by an independent and impartial tribunal, in the

determination of his rights and obligations and of any criminal charge against him.

Article 11

1. Everyone charged with a penal offence has the right to be presumed innocent until proven guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.
2. No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

Article 12

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

Article 13

1. Everyone has the right to freedom of movement and residence within the borders of each State.
2. Everyone has the right to leave any country, including his own, and to return to his country.

Article 14

1. Everyone has the right to seek and to enjoy in other countries asylum from persecution.
2. This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

Article 15

1. Everyone has the right to a nationality.
2. No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

Article 16

1. Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.
2. Marriage shall be entered into only with the free and full consent of the intending spouses.
3. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

Article 17

1. Everyone has the right to own property alone as well as in association with others.
2. No one shall be arbitrarily deprived of his property.

Article 18

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Article 19

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Article 20

1. Everyone has the right to freedom of peaceful assembly and association.
2. No one may be compelled to belong to an association.

Article 21

1. Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.
2. Everyone has the right of equal access to public service in his country.
3. The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

Article 22

Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

Article 23

1. Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.
2. Everyone, without any discrimination, has the right to equal pay for equal work.
3. Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.
4. Everyone has the right to form and to join trade unions for the protection of his interests.

Article 24

Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

Article 25

1. Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.
2. Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

Article 26

1. Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.
2. Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.
3. Parents have a prior right to choose the kind of education that shall be given to their children.

Article 27

1. Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.

2. Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

Article 28

Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

Article 29

1. Everyone has duties to the community in which alone the free and full development of his personality is possible.
2. In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.
3. These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

Article 30

Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

Annex 1(b)

International Covenant on Civil and Political Rights

Preamble

The States Parties to the present Covenant,

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Recognizing that these rights derive from the inherent dignity of the human person,

Recognizing that, in accordance with the Universal Declaration of Human Rights, the ideal of free human beings enjoying civil and political freedom and freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his civil and political rights, as well as his economic, social and cultural rights,

Considering the obligation of States under the Charter of the United Nations to promote universal respect for, and observance of, human rights and freedoms,

Realizing that the individual, having duties to other individuals and to the community to which he belongs, is under a responsibility to strive for the promotion and observance of the rights recognized in the present Covenant,

Agree upon the following articles:

PART 1

Article 1

1. All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.
2. All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.
3. The States Parties to the present Covenant, including those having responsibility for the administration of Non-Self-Governing and Trust Territories, shall promote the realization of the right of self-determination, and shall respect that right, in conformity with the provisions of the Charter of the United Nations.

PART II

Article 2

1. Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its

territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

2. Where not already provided for by existing legislative or other measures, each State Party to the present Covenant undertakes to take the necessary steps, in accordance with its constitutional processes and with the provisions of the present Covenant, to adopt such legislative or other measures as may be necessary to give effect to the rights recognized in the present Covenant.
3. Each State Party to the present Covenant undertakes:
 1. To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity; to ensure that any person claiming such a remedy shall have his rights thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy;
 2. To ensure that the competent authorities shall enforce such remedies when granted.

Article 3

The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the present Covenant.

Article 4

1. In time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, the States Parties to the present Covenant may take measures derogating from their obligations under the present Covenant to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with their other obligations under international law and do not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin.
2. No derogation from articles 6, 7, 8 (paragraphs 1 and 2), 11, 15, 16 and 18 may be made under this provision.
3. Any State Party to the present Covenant availing itself of the right of derogation shall immediately inform the other States Parties to the present Covenant, through

the intermediary of the Secretary-General of the United Nations, of the provisions from which it has derogated and of the reasons by which it was actuated. A further communication shall be made, through the same intermediary, on the date on which it terminates such derogation.

Article 5

1. Nothing in the present Covenant may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms recognized herein or at their limitation to a greater extent than is provided for in the present Covenant.
2. There shall be no restriction upon or derogation from any of the fundamental human rights recognized or existing in any State Party to the present Covenant pursuant to law, conventions, regulations or custom on the pretext that the present Covenant does not recognize such rights or that it recognizes them to a lesser extent.

PART III

Article 6

1. Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.
2. In countries which have not abolished the death penalty, sentence of death may be imposed only for the most serious crimes in accordance with the law in force at the time of the commission of the crime and not contrary to the provisions of the present Covenant and to the Convention on the Prevention and Punishment of the Crime of Genocide. This penalty can only be carried out pursuant to a final judgment rendered by a competent court.
3. When deprivation of life constitutes the crime of genocide, it is understood that nothing in this article shall authorize any State Party to the present Covenant to derogate in any way from any obligation assumed under the provisions of the Convention on the Prevention and Punishment of the Crime of Genocide.
4. Anyone sentenced to death shall have the right to seek pardon or commutation of the sentence. Amnesty, pardon or commutation of the sentence of death may be granted in all cases.
5. Sentence of death shall not be imposed for crimes committed by persons below eighteen years of age and shall not be carried out on pregnant women.
6. Nothing in this article shall be invoked to delay or to prevent the abolition of capital punishment by any State Party to the present Covenant.

Article 7

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.

Article 8

1. No one shall be held in slavery; slavery and the slave-trade in all their forms shall be prohibited.
2. No one shall be held in servitude.
3. 1. No one shall be required to perform forced or compulsory labour;
2. Paragraph 3(a) shall not be held to preclude, in countries where imprisonment with hard labour may be imposed as a punishment for a crime, the performance of hard labour in pursuance of a sentence to such punishment by a competent court;
3. For the purpose of this paragraph the term "forced or compulsory labour" shall not include:
 1. Any work or service, not referred to in subparagraph (b), normally required of a person who is under detention in consequence of a lawful order of a court, or of a person during conditional release from such detention;
 2. Any service of a military character and, in countries where conscientious objection is recognized, any national service required by law of conscientious objectors;
 3. Any service exacted in cases of emergency or calamity threatening the life or well-being of the community;
 4. Any work or service which forms part of normal civil obligations.

Article 9

1. Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.
2. Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.
3. Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgment.
4. Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.
5. Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation.

Article 10

1. All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.
2.
 1. Accused persons shall, save in exceptional circumstances, be segregated from convicted persons and shall be subject to separate treatment appropriate to their status as unconvicted persons;
 2. Accused juvenile persons shall be separated from adults and brought as speedily as possible for adjudication.
3. The penitentiary system shall comprise treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation. Juvenile offenders shall be segregated from adults and be accorded treatment appropriate to their age and legal status.

Article 11

No one shall be imprisoned merely on the ground of inability to fulfill a contractual obligation.

Article 12

1. Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence.
2. Everyone shall be free to leave any country, including his own.
3. The above-mentioned rights shall not be subject to any restrictions except those which are provided by law, are necessary to protect national security, public order (ordre public), public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in the present Covenant.
4. No one shall be arbitrarily deprived of the right to enter his own country.

Article 13

An alien lawfully in the territory of a State Party to the present Covenant may be expelled therefrom only in pursuance of a decision reached in accordance with law and shall, except where compelling reasons of national security otherwise require, be allowed to submit the reasons against his expulsion and to have his case reviewed by, and be represented for the purpose before, the competent authority or a person or persons especially designated by the competent authority.

Article 14

1. All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law. The Press and the public may be excluded from all or part of a trial for reasons of morals, public order (ordre public) or national security in a democratic society, or when the interest of the private

lives of the parties so requires, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice; but any judgment rendered in a criminal case or in a suit at law shall be made public except where the interest of juvenile persons otherwise requires or the proceedings concern matrimonial disputes or the guardianship of children.

2. Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law.
3. In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality:
 1. To be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him;
 2. To have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing;
 3. To be tried without undue delay;
 4. To be tried in his presence, and to defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it;
 5. To examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;
 6. To have the free assistance of an interpreter if he cannot understand or speak the language used in court;
 7. Not to be compelled to testify against himself or to confess guilt.
4. In the case of juvenile persons, the procedure shall be such as will take account of their age and the desirability of promoting their rehabilitation.
5. Everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law.
6. When a person has by a final decision been convicted of a criminal offence and when subsequently his conviction has been reversed or he has been pardoned on the ground that a new or newly discovered fact shows conclusively that there has been a miscarriage of justice, the person who has suffered punishment as a result of such conviction shall be compensated according to law, unless it is proved that the non-disclosure of the unknown fact in time is wholly or partly attributable to him.
7. No one shall be liable to be tried or punished again for an offence for which he has already been finally convicted or acquitted in accordance with the law and penal procedure of each country.

Article 15

1. No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time when the criminal offence was committed. If, subsequent to the commission of the offence, provision is made by law for the imposition of a lighter penalty, the offender shall benefit thereby.
2. Nothing in this article shall prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles of law recognized by the community of nations.

Article 16

Everyone shall have the right to recognition everywhere as a person before the law.

Article 17

1. No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation.
2. Everyone has the right to the protection of the law against such interference or attacks.

Article 18

1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.
2. No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.
3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.
4. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.

Article 19

1. Everyone shall have the right to hold opinions without interference.
2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.

3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

1. For respect of the rights or reputations of others;
2. For the protection of national security or of public order (ordre public), or of public health or morals.

Article 20

1. Any propaganda for war shall be prohibited by law.
2. Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.

Article 21

The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.

Article 22

1. Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests.
2. No restrictions may be placed on the exercise of this right other than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others. This article shall not prevent the imposition of lawful restrictions on members of the armed forces and of the police in their exercise of this right.
3. Nothing in this article shall authorize States Parties to the International Labour Organization Convention of 1948 concerning Freedom of Association and Protection of the Right to Organize to take legislative measures which would prejudice, or to apply the law in such a manner as to prejudice, the guarantees provided for in that Convention.

Article 23

1. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.
2. The right of men and women of marriageable age to marry and to found a family shall be recognized.
3. No marriage shall be entered into without the free and full consent of the intending spouses.
4. States Parties to the present Covenant shall take appropriate steps to ensure equality of rights and responsibilities of spouses as to marriage, during marriage and at its dissolution. In the case of dissolu-

tion, provision shall be made for the necessary protection of any children.

Article 24

1. Every child shall have, without any discrimination as to race, colour, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State.
2. Every child shall be registered immediately after birth and shall have a name.
3. Every child has the right to acquire a nationality.

Article 25

Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions:

1. To take part in the conduct of public affairs, directly or through freely chosen representatives;
2. To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors;
3. To have access, on general terms of equality, to public service in his country.

Article 26

All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Article 27

In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language.

PART IV

Article 28

1. There shall be established a Human Rights Committee (hereafter referred to in the present Covenant as the Committee). It shall consist of eighteen members and shall carry out the functions hereinafter provided.
2. The Committee shall be composed of nationals of the States Parties to the present Covenant who shall be persons of high moral character and recognized competence in the field of human rights, consideration being given to the usefulness of the participation of some persons having legal experience.
3. The members of the Committee shall be elected and shall serve in their personal capacity.

Article 29

1. The members of the Committee shall be elected by secret ballot from a list of persons possessing the qualifications prescribed in article 28 and nominated for the purpose by the States Parties to the present Covenant.
2. Each State Party to the present Covenant may nominate not more than two persons. These persons shall be nationals of the nominating State.
3. A person shall be eligible for renomination.

Article 30

1. The initial election shall be held no later than six months after the date of the entry into force of the present Covenant.
2. At least four months before the date of each election to the Committee, other than an election to fill a vacancy declared in accordance with article 34, the Secretary-General of the United Nations shall address a written invitation to the States Parties to the present Covenant to submit their nominations for membership of the Committee within three months.
3. The Secretary-General of the United Nations shall prepare a list in alphabetical order of all the persons thus nominated, with an indication of the States Parties which have nominated them, and shall submit it to the States Parties to the present Covenant no later than one month before the date of each election.
4. Elections of the members of the Committee shall be held at a meeting of the States Parties to the present Covenant convened by the Secretary-General of the United Nations at the Headquarters of the United Nations. At that meeting, for which two thirds of the States Parties to the present Covenant shall constitute a quorum, the persons elected to the Committee shall be those nominees who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.

Article 31

1. The Committee may not include more than one national of the same State.
2. In the election of the committee, consideration shall be given to equitable geographical distribution of membership and to the representation of the different forms of civilization and of the principal legal systems.

Article 32

1. The members of the Committee shall be elected for a term of four years. They shall be eligible for re-election if renominated. However, the terms of nine of the members elected at the first election shall expire at the end of two years; immediately after the first election, the names of these nine members shall be chosen by lot by the chairman of the meeting referred to in article 30, paragraph 4.

2. Elections at the expiry of office shall be held in accordance with the preceding articles of this part of the present Covenant.

Article 33

1. If, in the unanimous opinion of the other members, a member of the Committee has ceased to carry out his functions for any cause other than absence of a temporary character, the Chairman of the Committee shall notify the Secretary-General of the United Nations, who shall then declare the seat of that member to be vacant.
2. In the event of the death or the resignation of a member of the Committee, the Chairman shall immediately notify the Secretary-General of the United Nations, who shall declare the seat vacant from the date of death or the date on which the resignation takes effect.

Article 34

1. When a vacancy is declared in accordance with article 33 and if the term of office of the member to be replaced does not expire within six months of the declaration of the vacancy, the Secretary-General of the United Nations shall notify each of the States Parties to the present Covenant, which may within two months submit nominations in accordance with article 29 for the purpose of filling the vacancy.
2. The Secretary-General of the United Nations shall prepare a list in alphabetical order of the persons thus nominated and shall submit it to the States Parties to the present Covenant. The election to fill the vacancy shall then take place in accordance with the relevant provisions of this part of the present Covenant.
3. A member of the Committee elected to fill a vacancy declared in accordance with article 33 shall hold office for the remainder of the term of the member who vacated the seat on the Committee under the provisions of that article.

Article 35

The members of the Committee shall, with the approval of the General Assembly of the United Nations, receive emoluments from United Nations resources on such terms and conditions as the General Assembly may decide, having regard to the importance of the Committee's responsibilities.

Article 36

The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under the present Covenant.

Article 37

1. The Secretary-General of the United Nations shall convene the initial meeting of the Committee at the Headquarters of the United Nations.

2. After its initial meeting, the Committee shall meet at such time as shall be provided in its rules of procedure.
3. The Committee shall normally meet at the Headquarters of the United Nations or at the United Nations Office at Geneva.

Article 38

Every member of the Committee shall, before taking up his duties, make a solemn declaration in open committee that he will perform his functions impartially and conscientiously.

Article 39

1. The Committee shall elect its officers for a term of two years. They may be re-elected.
2. The Committee shall establish its own rules of procedure, but these rules shall provide, inter alia, that:
 1. Twelve members shall constitute a quorum;
 2. Decisions of the committee shall be made by a majority vote of the members present.

Article 40

1. The States Parties to the present Covenant undertake to submit reports on the measures they have adopted which give effect to the rights recognized herein and on the progress made in the enjoyment of those rights:
 1. Within one year of the entry into force of the present Covenant for the States Parties concerned;
 2. Thereafter whenever the Committee so requests.
2. All reports shall be submitted to the Secretary-General of the United Nations, who shall transmit them to the Committee for consideration. Reports shall indicate the factors and difficulties, if any, affecting the implementation of the present Covenant.
3. The Secretary-General of the United Nations may, after consultation with the Committee, transmit to the specialized agencies concerned copies of such parts of the reports as may fall within their field of competence.
4. The Committee shall study the reports submitted by the States Parties to the present Covenant. It shall transmit its reports, and such general comments as it may consider appropriate, to the States Parties. The Committee may also transmit to the Economic and Social Council these comments along with the copies of the reports it has received from States Parties to the present Covenant.
5. The States Parties to the present Covenant may submit to the Committee observations on any comments that may be made in accordance with paragraph 4 of this article.

Article 41

1. A State Party to the present Covenant may at any time declare under this article that it recognizes the competence of the Committee to receive and consider

communications to the effect that a State Party claims that another State Party is not fulfilling its obligations under the present Covenant. Communications under this article may be received and considered only if submitted by a State Party which has made a declaration recognizing in regard to itself the competence of the Committee. No communication shall be received by the Committee if it concerns a State Party which has not made such a declaration. Communications received under this article shall be dealt with in accordance with the following procedure:

1. If a State Party to the present Covenant considers that another State Party is not giving effect to the provisions of the present Covenant, it may, by written communication, bring the matter to the attention of that State Party. Within three months after the receipt of the communication, the receiving State shall afford the State which sent the communication an explanation or any other statement in writing clarifying the matter, which should include, to the extent possible and pertinent, reference to domestic procedures and remedies taken, pending, or available in the matter.
2. If the matter is not adjusted to the satisfaction of both States Parties concerned within six months after the receipt by the receiving State of the initial communication, either State shall have the right to refer the matter to the Committee, by notice given to the Committee and to the other State.
3. The Committee shall deal with a matter referred to it only after it has ascertained that all available domestic remedies have been invoked and exhausted in the matter, in conformity with the generally recognized principles of international law. This shall not be the rule where the application of the remedies is unreasonably prolonged.
4. The Committee shall hold closed meetings when examining communications under this article.
5. Subject to the provisions of subparagraph (c), the Committee shall make available its good offices to the States Parties concerned with a view to a friendly solution of the matter on the basis of respect for human rights and fundamental freedoms as recognized in the present Covenant.
6. In any matter referred to it, the Committee may call upon the States Parties concerned, referred to in subparagraph (b), to supply any relevant information.
7. The States Parties concerned, referred to in subparagraph (b), shall have the right to be represented when the matter is being considered in the Committee and to make submissions orally and/or in writing.
8. The Committee shall, within twelve months after the date of receipt of notice under subparagraph (b), submit a report:
 1. If a solution within the terms of subparagraph (e) is reached, the Committee shall confine its report to a brief statement of the facts and of the solution reached;

2. If a solution within the terms of subparagraph (e) is not reached, the Committee shall confine its report to a brief statement of the facts the written submissions and record of the oral submissions made by the States Parties concerned shall be attached to the report. In every matter, the report shall be communicated to the States Parties concerned.
2. The provisions of this article shall come into force when ten States Parties to the present Covenant have made declarations under paragraph 1 of this article. Such declarations shall be deposited by the States Parties with the Secretary-General of the United Nations, who shall transmit copies thereof to the other States Parties. A declaration may be withdrawn at any time by notification to the Secretary-General. Such a withdrawal shall not prejudice the consideration of any matter which is the subject of a communication already transmitted under this article; no further communication by any State Party shall be received after the notification of withdrawal of the declaration has been received by the Secretary-General, unless the State Party concerned has made a new declaration.

Article 42

1. If a matter referred to the Committee in accordance with article 41 is not resolved to the satisfaction of the States Parties concerned, the Committee may, with the prior consent of the States Parties concerned, appoint an ad hoc Conciliation Commission (hereinafter referred to as the Commission). The good offices of the Commission shall be made available to the States Parties concerned with a view to an amicable solution of the matter on the basis of respect for the present Covenant;
2. The Commission shall consist of five persons acceptable to the States Parties concerned. If the States Parties concerned fail to reach agreement within three months on all or part of the composition of the Commission, the members of the Commission concerning whom no agreement has been reached shall be elected by secret ballot by a two-thirds majority vote of the Committee from among its members.
2. The members of the Commission shall serve in their personal capacity. They shall not be nationals of the States Parties concerned, or of a State not party to the present Covenant, or of a State Party which has not made a declaration under Article 41.
3. The Commission shall elect its own Chairman and adopt its own rules of procedure.
4. The meetings of the Commission shall normally be held at the Headquarters of the United Nations or at the United Nations Office at Geneva. However, they may be held at such other convenient places as the Commission may determine in consultation with the Secretary-General of the United Nations and the States Parties concerned.

5. The secretariat provided in accordance with article 36 shall also service the commissions appointed under this article.
6. The information received and collated by the Committee shall be made available to the Commission and the Commission may call upon the States Parties concerned to supply any other relevant information.
7. When the Commission has fully considered the matter, but in any event not later than twelve months after having been seized of the matter, it shall submit to the Chairman of the Committee a report for communication to the States Parties concerned:
 1. If the Commission is unable to complete its consideration of the matter within twelve months, it shall confine its report to a brief statement of the status of its consideration of the matter.
 2. If an amicable solution to the matter on the basis of respect for human rights as recognized in the present Covenant is reached, the Commission shall confine its report to a brief statement of the facts and of the solution reached;
 3. If a solution within the terms of subparagraph (b) is not reached, the Commission's report shall embody its findings on all questions of fact relevant to the issues between the States Parties concerned, and its views on the possibilities of an amicable solution of the matter. This report shall also contain the written submissions and a record of the oral submissions made by the States Parties concerned;
 4. If the Commission's report is submitted under subparagraph (c), the States Parties concerned shall, within three months of the receipt of the report, notify the Chairman of the Committee whether or not they accept the contents of the report of the Commission.
8. The provisions of this article are without prejudice to the responsibilities of the Committee under article 41.
9. The States Parties concerned shall share equally all the expenses of the members of the Commission in accordance with estimates to be provided by the Secretary-General of the United Nations.
10. The Secretary-General of the United Nations shall be empowered to pay the expenses of the members of the Commission, if necessary, before reimbursement by the States Parties concerned, in accordance with paragraph 9 of this article.

Article 43

The members of the Committee, and of the ad hoc conciliation commissions which may be appointed under article 42, shall be entitled to the facilities, privileges and immunities of experts on mission for the United Nations as laid down in the relevant sections of the Convention on the Privileges and Immunities of the United Nations.

Article 44

The provisions for the implementation of the present Covenant shall apply without prejudice to the procedures prescribed in the field of human rights by or under the constituent instruments and the conventions of the United Nations and of the specialized agencies and shall not prevent the States Parties to the present Covenant from having recourse to other procedures for settling a dispute in accordance with general or special international agreements in force between them.

Article 45

The Committee shall submit to the General Assembly of the United Nations, through the Economic and Social Council, an annual report on its activities.

PART V

Article 46

Nothing in the present Covenant shall be interpreted as impairing the provisions of the Charter of the United Nations and of the constitutions of the specialized agencies which define the respective responsibilities of the various organs of the United Nations and of specialized agencies in regard to the matters dealt with in the present Covenant.

Article 47

Nothing in the present Covenant shall be interpreted as impairing the inherent right of all peoples to enjoy and utilize fully and freely their natural wealth and resources.

PART VI

Article 48

1. The present Covenant is open for signature by any State Member of the United Nations or member of any of its specialized agencies, by any State Party to the Statute of the International Court of Justice, and by any other State which has been invited by the General Assembly of the United Nations to become a party to the present Covenant.
2. The present Covenant is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.
3. The present Covenant shall be open to accession by any State referred to in paragraph 1 of this article.
4. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.
5. The Secretary-General of the United Nations shall inform all States which have signed this Covenant or acceded to it of the deposit of each instrument of ratification or accession.

Article 49

1. The present Covenant shall enter into force three months after the date of the deposit with the Secretary-

General of the United Nations of the thirty-fifth instrument of ratification or instrument of accession.

2. For each State ratifying the present Covenant or acceding to it after the deposit of the thirty-fifth instrument of ratification or instrument of accession, the present Covenant shall enter into force three months after the date of the deposit of its own instrument of ratification or instrument of accession.

Article 50

The provisions of the present Covenant shall extend to all parts of federal States without any limitations or exceptions.

Article 51

1. Any State Party to the present Covenant may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General of the United Nations shall thereupon communicate any proposed amendments to the States Parties to the present Covenant with a request that they notify him whether they favour a conference of States Parties for the purpose of considering and voting upon the proposals. In the event that at least one-third of the States Parties favours such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of the States Parties present and voting at the conference shall be submitted to the General Assembly of the United Nations for approval.

2. Amendments shall come into force when they have been approved by the General Assembly of the United Nations and accepted by a two-thirds majority of the State Parties to the present Covenant in accordance with their respective constitutional processes.
3. When amendments come into force, they shall be binding on those States Parties which have accepted them, other States Parties still being bound by the provisions of the present Covenant and any earlier amendment which they have accepted.

Article 52

Irrespective of the notifications made under article 48, paragraph 5, the Secretary-General of the United Nations shall inform all States referred to in paragraph 1 of the same article of the following particulars:

1. Signatures, ratifications and accessions under article 48;
2. The date of the entry into force of the present Covenant under article 49 and the date of the entry into force of any amendments under article 51.

Article 53

1. The present Covenant, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.
2. The Secretary-General of the United Nations shall transmit certified copies of the present Covenant to all States referred to in article 48.

Annex 1(c)

Optional Protocol to the International Covenant on Civil and Political Rights

The States Parties to the Present Protocol,

Considering that in order further to achieve the purposes of the Covenant on Civil and Political Rights (hereinafter referred to as the Covenant) and the implementation of its provisions it would be appropriate to enable the Human Rights Committee set up in part IV of the Covenant (hereinafter referred to as the Committee) to receive and consider, as provided in the present Protocol, communications from individuals claiming to be victims of violations of any of the rights set forth in the Covenant,

Have agreed as follows:

Article 1

A State Party to the Covenant that becomes a party to the present Protocol recognizes the competence of the Committee to receive and consider communications from individuals subject to its jurisdiction who claim to be victims of a violation by that State Party of any of the rights set forth in the Covenant. No communication shall be received by the Committee if it concerns a State Party to the Covenant which is not a party to the present Protocol.

Article 2

Subject to the provisions of article 1, individuals who claim that any of their rights enumerated in the Covenant have been violated and who have exhausted all available domestic remedies may submit a written communication to the Committee for consideration.

Article 3

The Committee shall consider inadmissible any communication under the present Protocol which is anonymous, or which it considers to be an abuse of the rights of submission of such communications or to be incompatible with the provisions of the Covenant.

Article 4

1. Subject to the provisions of article 3, the Committee shall bring any communications submitted to it under the present Protocol to the attention of the State Party to the present Protocol alleged to be violating any provisions of the Covenant.
2. Within six months, the receiving State shall submit to the Committee written explanations or statements clarifying the matter and the remedy, if any, that may have been taken by that State.

Article 5

1. The Committee shall consider communications received under the present Protocol in the light of all written information made available to it by the individual and by the State Party concerned.
2. The Committee shall not consider any communication from an individual unless it has ascertained that:
 1. The same matter is not being examined under another procedure of international investigation or settlement;
 2. The individual has exhausted all available domestic remedies. This shall not be the rule where the application of the remedies is unreasonably prolonged.
3. The Committee shall hold closed meetings when examining communications under the present Protocol.
4. The Committee shall forward its views to the State Party concerned and to the individual.

Article 6

The Committee shall include in its annual report under article 45 of the Covenant a summary of its activities under the present Protocol.

Article 7

Pending the achievement of the objectives of resolution 1514 (XV) adopted by the General Assembly of the United Nations on 14 December 1960 concerning the Declaration on the Granting of Independence to Colonial Countries and Peoples, the provisions of the present Protocol shall in no way limit the right of petition granted to these peoples by the Charter of the United Nations and other international conventions and instruments under the United Nations and its specialized agencies.

Article 8

1. The present Protocol is open for signature by any State which has signed the Covenant.
2. The present Protocol is subject to ratification by any State which has ratified or acceded to the Covenant. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.
3. The present Protocol shall be open to accession by any State which has ratified or acceded to the Covenant.

4. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.
5. The Secretary-General of the United Nations shall inform all States which have signed the present Protocol or acceded to it of the deposit of each instrument of ratification or accession.

Article 9

1. Subject to the entry into force of the Covenant, the present Protocol shall enter into force three months after the date of the deposit with the Secretary-General of the United Nations of the tenth instrument of ratification or instrument of accession.
2. For each State ratifying the present Protocol or acceding to it after the deposit of the tenth instrument of ratification or instrument of accession, the present Protocol shall enter into force three months after the date of the deposit of its own instrument of ratification or instrument of accession.

Article 10

The provisions of the present Protocol shall extend to all parts of federal States without any limitations or exceptions.

Article 11

1. Any State Party to the present Protocol may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate any proposed amendments to the States Parties to the present Protocol with a request that they notify him whether they favour a conference of States Parties for the purpose of considering and voting upon the proposal. In the event that at least one third of the States Parties favours such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of the States Parties present and voting at the conference shall be submitted to the General Assembly of the United Nations for approval.
2. Amendments shall come into force when they have been approved by the General Assembly of the United

Nations and accepted by a two-thirds majority of the States Parties to the present Protocol in accordance with their respective constitutional processes.

3. When amendments come into force, they shall be binding on those States Parties which have accepted them, other States Parties still being bound by the provisions of the present Protocol and any earlier amendment which they have accepted.

Article 12

1. Any State Party may denounce the present Protocol at any time by written notification addressed to the Secretary-General of the United Nations. Denunciation shall take effect three months after the date of receipt of the notification by the Secretary-General.
2. Denunciation shall be without prejudice to the continued application of the provisions of the present Protocol to any communication submitted under article 2 before the effective date of denunciation.

Article 13

Irrespective of the notifications made under article 8, paragraph 5, of the present Protocol, the Secretary-General of the United Nations shall inform all States referred to in article 48, paragraph 1, of the Covenant of the following particulars:

1. Signatures, ratifications and accessions under article 8;
2. The date of the entry into force of the present Protocol under article 9 and the date of the entry into force of any amendments under article 11;
3. Denunciations under article 12.

Article 14

1. The present Protocol, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.
2. The Secretary-General of the United Nations shall transmit certified copies of the present Protocol to all States referred to in article 48 of the Covenant.

Annex 1(d)

International Covenant on Economic, Social and Cultural Rights

Preamble

The States Parties to the present Covenant,

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all the members of the human family is the foundation of freedom, justice and peace in world,

Recognizing that these rights derive from the inherent dignity of the human person,

Recognizing that, in accordance with the Universal Declaration of Human Rights, the ideal of free human beings enjoying freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his economic, social and cultural rights, as well as his civil and political rights and freedom,

Realizing that the individual, having duties to other individuals and to the community to which he belongs, is under a responsibility to strive for the promotion and observance of the rights recognized in the present Covenant,

Agree upon the following articles:

PART I

Article 1

1. All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.
2. All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.
3. The States Parties to the present Covenant, including those having responsibility for the administration of Non-Self-Governing and Trust Territories, shall promote the realization of the right of self-determination, and shall respect that right, in conformity with the provisions of the Charter of the United Nations.

PART II

Article 2

1. Each State Party to the present Covenant undertakes to take steps, individually and through international

assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.

2. The States Parties to present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.
3. Developing countries, with due regard to human rights and their national economy, may determine to what extent they would guarantee the economic rights recognized in the present Covenant to non-nationals.

Article 3

The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all economic, social and cultural rights set forth in the present Covenant.

Article 4

The States Parties to the present Covenant recognize that, in the enjoyment of those rights provided by the State in conformity with the present Covenant, the State may subject such rights only to such limitations as are determined by law only in so far as this may be compatible with the nature of these rights and solely for the purpose of promoting the general welfare in a democratic society.

Article 5

1. Nothing in the present Covenant may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights or freedoms recognized herein, or at their limitation to greater extent than is provided for in the present Covenant.
2. No restriction upon or derogation from any of the fundamental human rights recognized or existing in any country in virtue of law, conventions, regulations or custom shall be admitted on the pretext that the present Covenant does not recognize such rights or that it recognizes them to a lesser extent.

PART III

Article 6

1. The States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.
2. The Steps to be taken by a State Party to the present Covenant to achieve the full realization of this right shall include technical and vocational guidance and training programmes, policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual.

Article 7

The States to the present Covenant recognize the right of everyone to the enjoyment of just and favourable conditions of work which ensure, in particular:

1. Remuneration which provides all workers, as a minimum, with:
 1. Fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work;
 2. A decent living for themselves and their families in accordance with the provisions of the present Covenant;
2. Safe and healthy working conditions;
3. Equal opportunity for everyone to be promoted in his employment to an appropriate higher level, subject to no considerations other than those of seniority and competence;
4. Rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays.

Article 8

1. The States Parties to the present Covenant undertake to ensure:
 1. The right of everyone to form trade unions and join the trade union of his choice, subject only to the rules of the organization concerned, for the promotion and protection of his economic and social interests. No restrictions may be placed on the exercise of this right other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others;
 2. The right of trade unions to establish national federations of confederations and the right of the latter to form or join international trade-union organizations;

3. The right of trade unions to function freely subject to no limitations other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others;
4. The right to strike, provided that it is exercised in conformity with the laws of the particular country.
2. This article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces or of the police or of the administration of the State.
3. Nothing in this article shall authorize States Parties to the International Labour Organization Convention of 1948 concerning Freedom of Association and Protection of the Right to Organize to take legislative measures which would prejudice, or apply the law in such a manner as would prejudice, the guarantees provided for in the Convention.

Article 9

The States Parties to the present Covenant recognize the right of everyone to social security, including social insurance.

Article 10

The States Parties to the present Covenant recognize that:

1. The widest possible protection and assistance should be accorded to the family, which is the natural and fundamental group unit of society, particularly for its establishment and while it is responsible for the care and education of dependent children. Marriage must be entered into with the free consent of the intending spouses.
2. Special protection should be accorded to mothers during a reasonable period before and after childbirth. During such period working mothers should be accorded paid leave or leave with adequate social security benefits.
3. Special measures of protection and assistance should be taken on behalf of all children and young persons without any discrimination for reasons of parentage or other conditions. Children and young persons should be protected from economic and social exploitation. Their employment in work harmful to their morals or health or dangerous to life of likely to hamper their normal development should be punishable by law. States should also set age limits below which the paid employment of child labour should be prohibited and punishable by law.

Article 11

1. The States Parties to present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the international co-operation based on free consent.

2. The States Parties to the present Covenant, recognizing the fundamental right of everyone to be free from hunger, shall take, individually and through international co-operation, the measures, including specific programmes, which are needed:

1. To improve methods of production, conservation and distribution of food by making full use of technical and scientific knowledge, by disseminating knowledge of the principles of nutrition and by developing or reforming agrarian systems in such a way as to achieve the most efficient development and utilization of natural resources;
2. Taking into account the problems of both food-importing and food-exporting countries, to ensure an equitable distribution of world food supplies in relation to need.

Article 12

1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.
2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for:
 1. The provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child;
 2. The improvement of all aspects of environmental and industrial hygiene;
 3. The prevention, treatment and control epidemic, endemic, occupational and other diseases;
 4. The creation of conditions which would assure to all medical service and medical attention in the event of sickness.

Article 13

1. The States Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace.
2. The States Parties to the present Covenant recognize that, with a view to achieving the full realization of this right:
 1. Primary education shall be compulsory and available free to all;
 2. Secondary education in its different forms, including technical and vocational secondary education, shall be made generally available and accessible to all by ever appropriate means, and in particular by the progressive introduction of free education;

3. Higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education;

4. Fundamental education shall be encouraged or intensified as far as possible for those persons who have not received or completed the whole period of their primary education;

5. The development of a system of schools at all levels shall be actively pursued, an adequate fellowship system shall be established, and the material conditions of teaching staff shall be continuously improved.

3. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to choose for their children schools, other than those established by the public authorities, which conform to such minimum educational standards as may be laid down or approved by the State and to ensure the religious and moral education of their children in conformity with their own convictions.

4. No part of this article shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principles set forth in paragraph 1 of this article and to the requirement that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.

Article 14

Each State Party to the present Covenant which, at the time of becoming a Party, has not been able to secure in its metropolitan territory or other territories under its jurisdiction compulsory primary education, free of charge, undertakes, within two years, to work out and adopt a detailed plan of action for the progressive implementation, within a reasonable number of years, to be fixed in the plan, of the principle of compulsory education free of charge for all.

Article 15

1. The States Parties to the present covenant recognize the right of everyone:

1. To take part in cultural life;
2. To enjoy the benefits of scientific progress and its applications;
3. To benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for the conservation, the development and the diffusion of science and culture.

3. The States Parties to the present Covenant undertake to respect the freedom indispensable for scientific research and creative activity.

4. The States Parties to the present Covenant recognize the benefits to be derived from the encouragement and development of international contacts and co-operation in the scientific and cultural fields.

PART IV

Article 16

1. The States Parties to the present Covenant undertake to submit in conformity with this part of the Covenant reports on the measures which they have adopted and the progress made in achieving the observance of the rights recognized herein.
2.
 1. All reports shall be submitted to Secretary-General of the United Nations, who shall transmit copies to the Economic and Social Council for consideration in accordance with the provisions of the present Covenant;
 2. The Secretary-General of the United Nations shall also transmit to the specialized agencies copies of the reports, or any relevant parts therefrom, from States Parties to the present Covenant which are also members of these specialized agencies in so far as these reports, or parts therefrom, relate to any matters which fall within the responsibilities of the agencies in accordance with their constitutional instruments.

Article 17

1. The States Parties to the present Covenant shall furnish their in stages, in accordance with a programme to be established by the Economic and Social Council within one year of the entry into force the present Covenant after consultation with the States Parties the specialized agencies concerned.
2. Reports may indicate factors and difficulties affecting the degree of fulfillment of obligations under the present Covenant.
3. Where relevant information has previously been furnished to the Nations or to any specialized agency by any State Party to the present Covenant, it will not be necessary to reproduce that information, but a precise reference to the information so furnished will suffice.

Article 18

Pursuant to its responsibilities under the Charter of the United Nations in the field of human rights and fundamental freedoms, the Economic and Social Council may make arrangements with the specialized agencies in respect of their reporting to it on the progress made in achieving the observance of the provisions of the present Covenant falling within the scope of their activities. These reports may include particulars of decisions and recommendations on such implementation adopted by their competent organs.

Article 19

The Economic and Social Council may transmit to the Commission on Human Rights for study and general

recommendation or, as appropriate, for information the reports concerning human rights submitted by States in accordance with articles 16 and 17, and those concerning human rights submitted by the specialized agencies in accordance with article 18.

Article 20

The States Parties to the present Covenant and the specialized agencies concerned may submit comments to the Economic and Social Council on any general recommendation under article 19 or reference to such general recommendation in any report of the Commission on Human Rights or any documentation referred to therein.

Article 21

The Economic and Social Council may submit from time to time to the General Assembly reports with recommendations of a general nature and a summary of the information received from the States Parties to the present Covenant and the specialized agencies on the measures taken and the progress made in achieving general observance of the rights recognized in the present Covenant.

Article 22

The Economic and Social Council may bring to the attention of other organs of the United Nations, their subsidiary organs and specialized agencies concerned with furnishing technical assistance any matters arising out of the reports referred to in this part of the present Covenant which may assist such bodies in deciding, each within its field of competence, on the advisability of international measures likely to contribute to the effective progressive implementation of the present Covenant.

Article 23

The States Parties to the present Covenant agree that international action for the achievement of the rights recognized in the present Covenant includes such methods as the conclusion of conventions, the adoption of recommendations, the furnishing of technical assistance and the holding of regional meetings and technical meetings for the purpose of consultation and study organized in conjunction with the Governments concerned.

Article 24

Nothing in the present Covenant shall be interpreted as impairing the provisions of the Charter of the United Nations and of the constitutions of the specialized agencies which define the respective responsibilities of the various organs of the United Nations and of the specialized agencies in regard to the matters dealt with in the present Covenant.

Article 25

Nothing in the present Covenant shall be interpreted as impairing the inherent right of all peoples to enjoy and utilize fully and freely their natural wealth and resources.

PART V**Article 26**

1. The present Covenant is open for signature by any State Member of the United Nations or member of any of its specialized agencies, by any State Party to the Statute of the International Court of Justice, and by any other State which has been invited by the General Assembly of the United Nations to become a party to the present Covenant.
2. The present Covenant is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.
3. The present Covenant shall be open to accession by any State referred to in paragraph 1 of this article.
4. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.
5. The Secretary-General of the United Nations shall inform all States which have signed the present Covenant or acceded to it of the deposit of each instrument of ratification or accession.

Article 27

1. The present Covenant shall enter into force three months after the date of the deposit with the Secretary-General of the United Nations of the thirty-fifth instrument of ratification or instrument of accession.
2. For each State ratifying the present Covenant or acceding to it after the deposit of the thirty-fifth instrument of ratification or instrument of accession, the present Covenant shall enter into force three months after the date of the deposit of its own instrument of ratification or instrument of accession.

Article 28

The provisions of the present Covenant shall extend to all parts of federal States without any limitations or exceptions.

Article 29

1. Any State Party to the present Covenant may propose an amendment and file it with the Secretary-General of

the United Nations. The Secretary-General shall thereupon communicate any proposed amendments to the States Parties to the present Covenant with a request that they notify him whether they favour a conference of States Parties for the purpose of considering and voting upon the proposals. In the event that at least one third of the States Parties favours such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of the States Parties present and voting at the conference shall be submitted to the General Assembly of the United Nations for approval.

2. Amendments shall come into force when they have been approved by the General Assembly of the United Nations and accepted by a two-thirds majority of the States Parties to the present Covenant in accordance with their respective constitutional processes.
3. When amendments come into force they shall be binding on those States Parties which have accepted them, other States Parties still being bound by the provisions of the present Covenant and any earlier amendment which they have accepted.

Article 30

Irrespective of the notifications made under article 26, paragraph 5, the Secretary-General of the United Nations shall inform all States referred to in paragraph 1 of the same article of the following particulars:

1. Signatures, ratifications and accessions under article 26;
2. The date of the entry into force of the present Covenant under article 27 and the date of the entry into force of any amendments under article 29.

Article 31

1. The present Covenant, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.
2. The Secretary-General of the United Nations shall transmit certified copies of the present Covenant to all States referred to in article 26.

Annex 1(e)

Convention on the Elimination of all forms of Discrimination against Women

The States Parties to the present Convention,

Noting that the Charter of the United Nations reaffirms faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women,

Noting that the Universal Declaration of Human Rights affirms the principle of the inadmissibility of discrimination and proclaims that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind, including distinction based on sex,

Noting that the States parties to the International Covenants on Human Rights have the obligation to ensure the equal right of men and women to enjoy all economic, social, cultural, civil and political rights,

Considering the international conventions concluded under the auspices of the United Nations and the specialized agencies promoting equality of rights of men and women,

Noting also the resolutions, declarations and recommendations adopted by the United Nations and the specialized agencies promoting equality of rights of men and women,

Concerned, however, that despite these various instruments extensive discrimination against women continues to exist,

Recalling that discrimination against women violates the principles of equality of rights and respect for human dignity, is an obstacle to the participation of women, on equal terms with men, in the political, social, economic and cultural life of their countries, hampers the growth of the prosperity of society and the family and makes more difficult the full development of the potentialities of women in the service of their countries and of humanity,

Concerned that in situations of poverty women have the least access to food, health, education, training and opportunities for employment and other needs,

Convinced that the establishment of the new international economic order based on equity and justice will contribute significantly towards the promotion of equality between men and women,

Emphasizing that the eradication of apartheid, all forms of racism, racial discrimination, colonialism, neocolonialism, aggression, foreign occupation and domination and interference in the internal affairs of States is essential to the full enjoyment of the rights of men and women that the strengthening of international peace and security, the relaxation of international tension, mutual cooperation among all States irrespective of their social and economic

systems, general and complete disarmament, in particular nuclear disarmament under strict and effective international control, the affirmation of the principles of justice, equality and mutual benefit in relations among countries and the realization of the right of peoples under alien and colonial domination and foreign occupation to self-determination and independence, as well as respect for national sovereignty and territorial integrity, will promote social progress and development and as a consequence will contribute to the attainment of full equality between men and women,

Convinced that the full and complete development of a country, the welfare of the world and the cause of peace require the maximum participation of women on equal terms with men in all fields,

Bearing in mind the great contribution of women to the welfare of the family and to the development of society, so far not fully recognized, the social significance of maternity and the role of both parents in the family and in the upbringing of children, and aware that the role of women in procreation should not be a basis for discrimination but that the upbringing of children requires a sharing of responsibility between men and women and society as a whole,

Aware that a change in the traditional role of men as well as the role of women in society and in the family is needed to achieve full equality between men and women,

Determined to implement the principles set forth in the Declaration on the Elimination of Discrimination against Women and, for that purpose, to adopt the measures required for the elimination of such discrimination in all its forms and manifestations,

Have agreed on the following:

PART I

Article 1

For the purposes of the present Convention, the term "discrimination against women" shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.

Article 2

States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and

without delay a policy of eliminating discrimination against women and, to this end, undertake:

- (a) To embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realization of this principle;
- (b) To adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women;
- (c) To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination;
- (d) To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation
- (e) To take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise;
- (f) To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women;
- (g) To repeal all national penal provisions which constitute discrimination against women.

Article 3

States Parties shall take in all fields, in particular in the political, social, economic and cultural fields, all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.

Article 4

1. Adoption by States Parties of temporary special measures aimed at accelerating de facto equality between men and women shall not be considered discrimination as defined in the present Convention, but shall in no way entail as a consequence the maintenance of unequal or separate standards, these measures shall be discontinued when the objectives of equality of opportunity and treatment have been achieved.
2. Adoption by States Parties of special measures, including those measures contained in the present Convention, aimed at protecting maternity shall not be considered discriminatory.

Article 5

States Parties shall take all appropriate measures:

- (a) To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other

practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women;

- (b) To ensure that family education includes a proper understanding of maternity as a social function and the recognition of the common responsibility of men and women in the upbringing and development of their children, it being understood that the interest of the children is the primordial consideration in all cases.

Article 6

States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.

PART II

Article 7

States Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right:

- (a) To vote in all elections and public referenda and to be eligible for election to all publicly elected bodies;
- (b) To participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government;
- (c) To participate in non-governmental organizations and associations concerned with the public and political life of the country.

Article 8

States Parties shall take all appropriate measures to ensure to women, on equal terms with men and without any discrimination, the opportunity to represent their Governments at the international level and to participate in the work of international organizations.

Article 9

1. States Parties shall grant women equal rights with men to acquire, change or retain their nationality. They shall ensure in particular that neither marriage to an alien nor change of nationality by the husband during marriage shall automatically change the nationality of the wife, render her stateless or force upon her the nationality of the husband.
2. States Parties shall grant women equal rights with men with respect to the nationality of their children.

PART III

Article 10

States Parties shall take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education and in particular to ensure, on a basis of equality of men and women:

- (a) The same conditions for career and vocational guidance, for access to studies and for the achievement of diplomas in educational establishments of all categories in rural as well as in urban areas; this equality shall be ensured in pre-school, general, technical, professional and higher technical education, as well as in all types of vocational training;
- (b) Access to the same curricula, the same examinations, teaching staff with qualifications of the same standard and school premises and equipment of the same quality;
- (c) The elimination of any stereotyped concept of the roles of men and women at all levels and in all forms of education by encouraging coeducation and other types of education which will help to achieve this aim and, in particular, by the revision of textbooks and school programs and the adaptation of teaching methods;
- (d) The same opportunities to benefit from scholarships and other study grants;
- (e) The same opportunities for access to programs of continuing education, including adult and functional literacy programs, particularly those aimed at reducing, at the earliest possible time, any gap in education existing between men and women;
- (f) The reduction of female student drop-out rates and the organization of programs for girls and women who have left school prematurely;
- (g) The same opportunities to participate actively in sports and physical education;
- (h) Access to specific educational information to help to ensure the health and well-being of families, including information and advice on family planning.

Article 11

1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights, in particular:
 - (a) The right to work as an inalienable right of all human beings;
 - (b) The right to the same employment opportunities, including the application of the same criteria for selection in matters of employment;
 - (c) The right to free choice of profession and employment, the right to promotion, job security and all benefits and conditions of service and the right to receive vocational training and retraining, including apprenticeships, advanced vocational training and recurrent training;
 - (d) The right to equal remuneration, including benefits, and to equal treatment in respect of work of equal value, as well as equality of treatment in the evaluation of the quality of work;
 - (e) The right to social security, particularly in cases of retirement, unemployment, sickness, invalidity and old age and other incapacity to work, as well as the right to paid leave;

- (f) The right to protection of health and to safety in working conditions, including the safeguarding of the function of reproduction.
2. In order to prevent discrimination against women on the grounds of marriage or maternity and to ensure their effective right to work, States Parties shall take appropriate measures:
 - (a) To prohibit, subject to the imposition of sanctions, dismissal on the grounds of pregnancy or of maternity leave and discrimination in dismissals on the basis of marital status;
 - (b) To introduce maternity leave with pay or with comparable social benefits without loss of former employment, seniority or social allowances;
 - (c) To encourage the provision of the necessary supporting social services to enable parents to combine family obligations with work responsibilities and participation in public life, in particular through promoting the establishment and development of a network of child care facilities;
 - (d) To provide special protection to women during pregnancy in types of work proved to be harmful to them.
 3. Protective legislation relating to matters covered in this article shall be reviewed periodically in the light of scientific and technological knowledge and shall be revised, repealed or extended as necessary.

Article 12

1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning.
2. Notwithstanding the provisions of paragraph 1 of this article, States Parties shall ensure to women appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation.

Article 13

States Parties shall take all appropriate measures to eliminate discrimination against women in other areas of economic and social life in order to ensure, on a basis of equality of men and women, the same rights, in particular:

- (a) The right to family benefits;
- (b) The right to bank loans, mortgages and other forms of financial credit
- (c) The right to participate in recreational activities, sports and all aspects of cultural life.

Article 14

1. States Parties shall take into account the particular problems faced by rural women and the significant roles which rural women play in the economic survival of their

families, including their work in the non-monetized sectors of the economy, and shall take all appropriate measures to ensure the application of the provisions of the present Convention to women in rural areas.

2. States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right:
 - (a) To participate in the elaboration and implementation of development planning at all levels;
 - (b) To have access to adequate health care facilities, including information, counseling and services in family planning;
 - (c) To benefit directly from social security programs;
 - (d) To obtain all types of training and education, formal and non-formal, including that relating to functional literacy, as well as, inter alia, the benefit of all community and extension services, in order to increase their technical proficiency;
 - (e) To organize self-help groups and co-operatives in order to obtain equal access to economic opportunities through employment or self-employment;
 - (f) To participate in all community activities;
 - (g) To have access to agricultural credit and loans, marketing facilities, appropriate technology and equal treatment in land and agrarian reform as well as in land resettlement schemes;
 - (h) To enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications.

PART IV

Article 15

1. States Parties shall accord to women equality with men before the law.
2. State Parties shall accord to women, in civil matters, a legal capacity identical to that of men and the same opportunities to exercise that capacity. In particular, they shall give women equal rights to conclude contracts and to administer property and shall treat them equally in all stages of procedure in courts and tribunals.
3. States Parties agree that all contracts and all other private instruments of any kind with a legal effect which is directed at restricting the legal capacity of women shall be deemed null and void.
4. States Parties shall accord to men and women the same rights with regard to the law relating to the movement of persons and the freedom to choose their residence and domicile.

Article 16

1. States Parties shall take all appropriate measures to eliminate discrimination against women in all matters

relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women:

- (a) The same right to enter into marriage;
 - (b) The same right freely to choose a spouse and to enter into marriage only with their free and full consent;
 - (c) The same rights and responsibilities during marriage and at its dissolution;
 - (d) The same rights and responsibilities as parents, irrespective of their marital status, in matters relating to their children; in all cases the interests of the children shall be paramount;
 - (e) The same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights;
 - (f) The same rights and responsibilities with regard to guardianship, wardship, trusteeship and adoption of children, or similar institutions where these concepts exist in national legislation; in all cases the interests of the children shall be paramount;
 - (g) The same personal rights as husband and wife, including the right to choose a family name, a profession and an occupation;
 - (h) The same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property, whether free of charge or for a valuable consideration.
2. The betrothal and the marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory.

PART V

Article 17

1. For the purpose of considering the progress made in the implementation of the present Convention, there shall be established a Committee on the Elimination of Discrimination against Women (hereinafter referred to as the Committee) consisting, at the time of entry into force of the Convention, of eighteen and, after ratification of or accession to the Convention by the thirty-fifth State Party, of twenty-three experts of high moral standing and competence in the field covered by the Convention. The experts shall be elected by States Parties from among their nationals and shall serve in their personal capacity, consideration being given to equitable geographical distribution and to the representation of the different forms of civilization as well as the principal legal systems.
2. The members of the Committee shall be elected by secret ballot from a list of persons nominated by States Parties. Each State Party may nominate one person from among its own nationals.
3. The initial election shall be held six months after the date of the entry into force of the present Convention. At least three months before the date of each election

the Secretary-General of the United Nations shall address a letter to the States Parties inviting them to submit their nominations within two months. The Secretary-General shall prepare a list in alphabetical order of all persons thus nominated, indicating the States Parties which have nominated them, and shall submit it to the States Parties.

4. Elections of the members of the Committee shall be held at a meeting of States Parties convened by the Secretary-General at United Nations Headquarters. At that meeting, for which two thirds of the States Parties shall constitute a quorum, the persons elected to the Committee shall be those nominees who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.
5. The members of the Committee shall be elected for a term of four years. However, the terms of nine of the members elected at the first election shall expire at the end of two years; immediately after the first election the names of these nine members shall be chosen by lot by the Chairman of the Committee.
6. The election of the five additional members of the Committee shall be held in accordance with the provisions of paragraphs 2, 3 and 4 of this article, following the thirty-fifth ratification or accession. The terms of two of the additional members elected on this occasion shall expire at the end of two years, the names of these two members having been chosen by lot by the Chairman of the Committee.
7. For the filling of casual vacancies, the State Party whose expert has ceased to function as a member of the Committee shall appoint another expert from among its nationals, subject to the approval of the Committee.
8. The members of the Committee shall, with the approval of the General Assembly, receive emoluments from United Nations resources on such terms and conditions as the Assembly may decide, having regard to the importance of the Committee's responsibilities.
9. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under the present Convention.

Article 18

1. States Parties undertake to submit to the Secretary-General of the United Nations, for consideration by the Committee, a report on the legislative, judicial, administrative or other measures which they have adopted to give effect to the provisions of the present Convention and on the progress made in this respect:
 - (a) Within one year after the entry into force for the State concerned.
 - (b) Thereafter at least every four years and further whenever the Committee so requests.
2. Reports may indicate factors and difficulties affecting the degree of fulfillment of obligations under the present Convention.

Article 19

1. The Committee shall adopt its own rules of procedure.
2. The Committee shall elect its officers for a term of two years.

Article 20

1. The Committee shall normally meet for a period of not more than two weeks annually in order to consider the reports submitted in accordance with article 18 of the present Convention.
2. The meetings of the Committee shall normally be held at United Nations Headquarters or at any other convenient place as determined by the Committee.

Article 21

1. The Committee shall, through the Economic and Social Council, report annually to the General Assembly of the United Nations on its activities and may make suggestions and general recommendations based on the examination of reports and information received from the States Parties. Such suggestions and general recommendations shall be included in the report of the Committee together with comments, if any, from States Parties.
2. The Secretary-General of the United Nations shall transmit the reports of the Committee to the Commission on the Status of Women for its information.

Article 22

The specialized agencies shall be entitled to be represented at the consideration of the implementation of such provisions of the present Convention as fall within the scope of their activities. The Committee may invite the specialized agencies to submit reports on the implementation of the Convention in areas falling within the scope of their activities.

PART VI

Article 23

Nothing in the present Convention shall affect any provisions that are more conducive to the achievement of equality between men and women which may be contained:

- (a) In the legislation of a State Party; or
- (b) In any other international convention, treaty or agreement in force for that State.

Article 24

States Parties undertake to adopt all necessary measures at the national level aimed at achieving the full realization of the rights recognized in the present Convention.

Article 25

1. The present Convention shall be open for signature by all States.

2. The Secretary-General of the United Nations is designated as the depository of the present Convention.
3. The present Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.
4. The present Convention shall be open to accession by all States.

Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

Article 26

1. A request for the revision of the present Convention may be made at any time by any State Party by means of a notification in writing addressed to the Secretary-General of the United Nations.
2. The General Assembly of the United Nations shall decide upon the steps, if any, to be taken in respect of such a request.

Article 27

1. The present Convention shall enter into force on the thirtieth day after the date of deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession.
2. For each State ratifying the present Convention or acceding to it after the deposit of the twentieth instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after the date of the deposit of its own instrument of ratification or accession.

Article 28

1. The Secretary-General of the United Nations shall receive and circulate to all States the text of reservations made by States at the time of ratification or accession.

2. A reservation incompatible with the object and purpose of the present Convention shall not be permitted.
3. Reservations may be withdrawn at any time by notification to this effect addressed to the Secretary-General of the United Nations, who shall then inform all States thereof. Such notification shall take effect on the date on which it is received.

Article 29

1. Any dispute between two or more States Parties concerning the interpretation or application of the present Convention which is not settled by negotiation shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the parties are unable to agree on the organization of the arbitration, any one of those parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.
2. Each State Party may at the time of signature or ratification of the present Convention or accession thereto declare that it does not consider itself bound by paragraph 1 of this article. The other States Parties shall not be bound by that paragraph with respect to any State Party which has made such a reservation.
3. Any State Party which has made a reservation in accordance with paragraph 2 of this article may at any time withdraw that reservation by notification to the Secretary General of the United Nations.

Article 30

The present Convention, the Arabic, Chinese, English, French, Russian and Spanish texts of which are equally authentic, shall be deposited with the Secretary General of the United Nations. In witness whereof the undersigned, duly authorized, have signed the present Convention.

Annex 1(f)

Convention on the Rights of the Child

Preamble

The States Parties to the present Convention,

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Bearing in mind that the peoples of the United Nations have, in the Charter, reaffirmed their faith in fundamental human rights and in the dignity and worth of the human person, and have determined to promote social progress and better standards of life in larger freedom,

Recognizing that the United Nations has, in the Universal Declaration of Human Rights and in the International Covenants on Human Rights, proclaimed and agreed that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,

Recalling that, in the Universal Declaration of Human Rights, the United Nations has proclaimed that childhood is entitled to special care and assistance,

Convinced that the family, as the fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children, should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community,

Recognizing that the child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding,

Considering that the child should be fully prepared to live an individual life in society, and brought up in the spirit of the ideals proclaimed in the Charter of the United Nations, and in particular in the spirit of peace, dignity, tolerance, freedom, equality and solidarity,

Bearing in mind that the need to extend particular care to the child has been stated in the Geneva Declaration of the Rights of the Child of 1924 and in the Declaration of the Rights of the Child adopted by the General Assembly on 20 November 1959 and recognized in the Universal Declaration of Human Rights, in the International Covenant on Civil and Political Rights (in particular in articles 23 and 24), in the International Covenant on Economic, Social and Cultural Rights (in particular in article 10) and in the statutes and relevant instruments of specialized agencies and international organizations concerned with the welfare of children,

Bearing in mind that, as indicated in the Declaration of the Rights of the Child, "the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth",

Recalling the provisions of the Declaration on Social and Legal Principles relating to the Protection and Welfare of Children, with Special Reference to Foster Placement and Adoption Nationally and Internationally; the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules); and the Declaration on the Protection of Women and Children in Emergency and Armed Conflict,

Recognizing that, in all countries in the world, there are children living in exceptionally difficult conditions, and that such children need special consideration,

Taking due account of the importance of the traditions and cultural values of each people for the protection and harmonious development of the child,

Recognizing the importance of international co-operation for improving the living conditions of children in every country, in particular in the developing countries,

Have agreed as follows:

PART I

Article 1

For the purposes of the present Convention, a child means every human being below the age of eighteen years unless, under the law applicable to the child, majority is attained earlier.

Article 2

1. States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.
2. States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.

Article 3

1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.

2. States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.
3. States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.

Article 4

States Parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention. With regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international co-operation.

Article 5

States Parties shall respect the responsibilities, rights and duties of parents or, where applicable, the members of the extended family or community as provided for by local custom, legal guardians or other persons legally responsible for the child, to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights recognized in the present Convention.

Article 6

1. States Parties recognize that every child has the inherent right to life.
2. States Parties shall ensure to the maximum extent possible the survival and development of the child.

Article 7

1. The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents.
2. States Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless.

Article 8

1. States Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference.
2. Where a child is illegally deprived of some or all of the elements of his or her identity, States Parties shall provide appropriate assistance and protection, with a view to speedily re-establishing his or her identity.

Article 9

1. States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. Such determination may be necessary in a particular case such as one involving abuse or neglect of the child by the parents, or one where the parents are living separately and a decision must be made as to the child's place of residence.
2. In any proceedings pursuant to paragraph 1 of the present article, all interested parties shall be given an opportunity to participate in the proceedings and make their views known.
3. States Parties shall respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's best interests.
4. Where such separation results from any action initiated by a State Party, such as the detention, imprisonment, exile, deportation or death (including death arising from any cause while the person is in the custody of the State) of one or both parents or of the child, that State Party shall, upon request, provide the parents, the child or, if appropriate, another member of the family with the essential information concerning the whereabouts of the absent member(s) of the family unless the provision of the information would be detrimental to the well-being of the child. States Parties shall further ensure that the submission of such a request shall of itself entail no adverse consequences for the person(s) concerned.

Article 10

1. In accordance with the obligation of States Parties under article 9, paragraph 1, applications by a child or his or her parents to enter or leave a State Party for the purpose of family reunification shall be dealt with by States Parties in a positive, humane and expeditious manner. States Parties shall further ensure that the submission of such a request shall entail no adverse consequences for the applicants and for the members of their family.
2. A child whose parents reside in different States shall have the right to maintain on a regular basis, save in exceptional circumstances personal relations and direct contacts with both parents. Towards that end and in accordance with the obligation of States Parties under article 9, paragraph 2, States Parties shall respect the right of the child and his or her parents to leave any country, including their own, and to enter their own country. The right to leave any country shall be subject only to such restriction as are prescribed by law and which are necessary to protect the national security, public order (ordre public), public health or morals or the rights and freedoms of others and are consistent with the other rights recognized in the present Convention.

Article 11

1. States Parties shall take measures to combat the illicit transfer and non-return of children abroad.
2. To this end, States Parties shall promote the conclusion of bilateral or multilateral agreements or accession to existing agreements.

Article 12

1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.
2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

Article 13

1. The child shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child's choice.
2. The exercise of this right may be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:
 - (a) For respect of the rights or reputations of others; or
 - (b) For the protection of national security or of public order (ordre public), or of public health or morals.

Article 14

1. States Parties shall respect the right of the child to freedom of thought, conscience and religion.
2. States Parties shall respect the rights and duties of the parents and, when applicable, legal guardians, to provide direction to the child in the exercise of his or her right in a manner consistent with the evolving capacities of the child.
3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals, or the fundamental rights and freedoms of others.

Article 15

1. States Parties recognize the rights of the child to freedom of association and to freedom of peaceful assembly.
2. No restrictions may be placed on the exercise of these rights other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or

morals or the protection of the rights and freedoms of others.

Article 16

1. No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, nor to unlawful attacks on his or her honour and reputation.
2. The child has the right to the protection of the law against such interference or attacks.

Article 17

States Parties recognize the important function performed by the mass media and shall ensure that the child has access to information and material from a diversity of national and international sources, especially those aimed at the promotion of his or her social, spiritual and moral well-being and physical and mental health. To this end, States Parties shall:

- (a) Encourage the mass media to disseminate information and material of social and cultural benefit to the child and in accordance with the spirit of article 29;
- (b) Encourage international co-operation in the production, exchange and dissemination of such information and material from a diversity of cultural, national and international sources;
- (c) Encourage the production and dissemination of children's books;
- (d) Encourage the mass media to have particular regard to the linguistic needs of the child who belongs to a minority group or who is indigenous;
- (e) Encourage the development of appropriate guidelines for the protection of the child from information and material injurious to his or her well-being, bearing in mind the provisions of articles 13 and 18.

Article 18

1. States Parties shall use their best efforts to ensure recognition of the principle that both parents have common responsibilities for the upbringing and development of the child. Parents or, as the case may be, legal guardians, have the primary responsibility for the upbringing and development of the child. The best interests of the child will be their basic concern.
2. For the purpose of guaranteeing and promoting the rights set forth in the present Convention, States Parties shall render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities and shall ensure the development of institutions, facilities and services for the care of children.
3. States Parties shall take all appropriate measures to ensure that children of working parents have the right to benefit from child-care services and facilities for which they are eligible.

Article 19

1. States Parties shall take all appropriate legislative, administrative, social and educational measures to

protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.

2. Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement.

Article 20

1. A child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State.
2. States Parties shall in accordance with their national laws ensure alternative care for such a child.
3. Such care could include, inter alia, foster placement, kafalah of Islamic law, adoption or if necessary placement in suitable institutions for the care of children. When considering solutions, due regard shall be paid to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background.

Article 21

States Parties that recognize and/or permit the system of adoption shall ensure that the best interests of the child shall be the paramount consideration and they shall:

- (a) Ensure that the adoption of a child is authorized only by competent authorities who determine, in accordance with applicable law and procedures and on the basis of all pertinent and reliable information, that the adoption is permissible in view of the child's status concerning parents, relatives and legal guardians and that, if required, the persons concerned have given their informed consent to the adoption on the basis of such counselling as may be necessary;
- (b) Recognize that inter-country adoption may be considered as an alternative means of child's care, if the child cannot be placed in a foster or an adoptive family or cannot in any suitable manner be cared for in the child's country of origin;
- (c) Ensure that the child concerned by inter-country adoption enjoys safeguards and standards equivalent to those existing in the case of national adoption;
- (d) Take all appropriate measures to ensure that, in inter-country adoption, the placement does not result in improper financial gain for those involved in it;
- (e) Promote, where appropriate, the objectives of the present article by concluding bilateral or multilateral arrangements or agreements, and endeavour, within this framework, to ensure that the placement of the

child in another country is carried out by competent authorities or organs.

Article 22

1. States Parties shall take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law and procedures shall, whether unaccompanied or accompanied by his or her parents or by any other person, receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the present Convention and in other international human rights or humanitarian instruments to which the said States are Parties.
2. For this purpose, States Parties shall provide, as they consider appropriate, co-operation in any efforts by the United Nations and other competent intergovernmental organizations or non-governmental organizations co-operating with the United Nations to protect and assist such a child and to trace the parents or other members of the family of any refugee child in order to obtain information necessary for reunification with his or her family. In cases where no parents or other members of the family can be found, the child shall be accorded the same protection as any other child permanently or temporarily deprived of his or her family environment for any reason, as set forth in the present Convention.

Article 23

1. States Parties recognize that a mentally or physically disabled child should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community.
2. States Parties recognize the right of the disabled child to special care and shall encourage and ensure the extension, subject to available resources, to the eligible child and those responsible for his or her care, of assistance for which application is made and which is appropriate to the child's condition and to the circumstances of the parents or others caring for the child.
3. Recognizing the special needs of a disabled child, assistance extended in accordance with paragraph 2 of the present article shall be provided free of charge, whenever possible, taking into account the financial resources of the parents or others caring for the child, and shall be designed to ensure that the disabled child has effective access to and receives education, training, health care services, rehabilitation services, preparation for employment and recreation opportunities in a manner conducive to the child's achieving the fullest possible social integration and individual development, including his or her cultural and spiritual development.
4. States Parties shall promote, in the spirit of international co-operation, the exchange of appropriate information in the field of preventive health care and of medical, psychological and functional treatment of disabled

children, including dissemination of and access to information concerning methods of rehabilitation, education and vocational services, with the aim of enabling States Parties to improve their capabilities and skills and to widen their experience in these areas. In this regard, particular account shall be taken of the needs of developing countries.

Article 24

1. States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services forth in the present Convention and in other international human rights or humanitarian instruments to which the said States are Parties.
2. For this purpose, States Parties shall provide, as they consider appropriate, co-operation in any efforts by the United Nations and other competent intergovernmental organizations or non-governmental organizations cooperating with the United Nations to protect and assist such a child and to trace the parents or other members of the family of any refugee child in order to obtain information necessary for reunification with his or her family. In cases where no parents or other members of the family can be found, the child shall be accorded the same protection as any other child permanently or temporarily deprived of his or her family environment for any reason, as set forth in the present Convention. States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures:
 - (a) To diminish infant and child mortality;
 - (b) To ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care;
 - (c) To combat disease and malnutrition, including within the framework of primary health care, through, in particular, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution;
 - (d) To ensure appropriate pre-natal and post-natal health care for mothers;
 - (e) To ensure that all segments of society, in particular parents and children, are informed, have access to education and are supported in the use of basic knowledge of child health and nutrition, the advantages of breast-feeding, hygiene and environmental sanitation and the prevention of accidents;
 - (f) To develop preventive health care, guidance for parents and family planning education and services.
3. States Parties shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children.

4. States Parties undertake to promote and encourage international co-operation with a view to achieving progressively the full realization of the right recognized in the present article. In this regard, particular account shall be taken of the needs of developing countries.

Article 25

States Parties recognize the right of a child who has been placed by the competent authorities for the purposes of care, protection or treatment of his or her physical or mental health, to a periodic review of the treatment provided to the child and all other circumstances relevant to his or her placement.

Article 26

1. States Parties shall recognize for every child the right to benefit from social security, including social insurance, and shall take the necessary measures to achieve the full realization of this right in accordance with their national law.
2. The benefits should, where appropriate, be granted, taking into account the resources and the circumstances of the child and persons having responsibility for the maintenance of the child, as well as any other consideration relevant to an application for benefits made by or on behalf of the child.

Article 27

1. States Parties recognize the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development.
2. The parent(s) or others responsible for the child have the primary responsibility to secure, within their abilities and financial capacities, the conditions of living necessary for the child's development.
3. States Parties, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing.
4. States Parties shall take all appropriate measures to secure the recovery of maintenance for the child from the parents or other persons having financial responsibility for the child, both within the State Party and from abroad. In particular, where the person having financial responsibility for the child lives in a State different from that of the child, States Parties shall promote the accession to international agreements or the conclusion of such agreements, as well as the making of other appropriate arrangements.

Article 28

1. States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular:

- (a) Make primary education compulsory and available free to all;
 - (b) Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need;
 - (c) Make higher education accessible to all on the basis of capacity by every appropriate means;
 - (d) Make educational and vocational information and guidance available and accessible to all children;
 - (e) Take measures to encourage regular attendance at schools and the reduction of drop-out rates.
2. States Parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with the present Convention.
 3. States Parties shall promote and encourage international co-operation in matters relating to education, in particular with a view to contributing to the elimination of ignorance and illiteracy throughout the world and facilitating access to scientific and technical knowledge and modern teaching methods. In this regard, particular account shall be taken of the needs of developing countries.

Article 29

1. States Parties agree that the education of the child shall be directed to:
 - (a) The development of the child's personality, talents and mental and physical abilities to their fullest potential;
 - (b) The development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations;
 - (c) The development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living; the country from which he or she may originate, and for civilizations different from his or her own;
 - (d) The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin;
 - (e) The development of respect for the natural environment.
2. No part of the present article or article 28 shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principles set forth in paragraph 1 of the present article and to the requirements that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.

Article 30

In those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language.

Article 31

1. States Parties recognize the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts.
2. States Parties shall respect and promote the right of the child to participate fully in cultural and artistic life and shall encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity.

Article 32

1. States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.
2. States Parties shall take legislative, administrative, social and educational measures to ensure the implementation of the present article. To this end, and having regard to the relevant provisions of other international instruments, States Parties shall in particular:
 - (a) Provide for a minimum age or minimum ages for admission to employment;
 - (b) Provide for appropriate regulation of the hours and conditions of employment;
 - (c) Provide for appropriate penalties or other sanctions to ensure the effective enforcement of the present article.

Article 33

States Parties shall take all appropriate measures, including legislative, administrative, social and educational measures, to protect children from the illicit use of narcotic drugs and psychotropic substances as defined in the relevant international treaties, and to prevent the use of children in the illicit production and trafficking of such substances.

Article 34

States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent:

- (a) The inducement or coercion of a child to engage in any unlawful sexual activity;

- (b) The exploitative use of children in prostitution or other unlawful sexual practices;
- (c) The exploitative use of children in pornographic performances and materials.

Article 35

States Parties shall take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form.

Article 36

States Parties shall protect the child against all other forms of exploitation prejudicial to any aspects of the child's welfare.

Article 37

States Parties shall ensure that:

- (a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age;
- (b) No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time;
- (c) Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances;
- (d) Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action.

Article 38

- 1. States Parties undertake to respect and to ensure respect for rules of international humanitarian law applicable to them in armed conflicts which are relevant to the child.
- 2. States Parties shall take all feasible measures to ensure that persons who have not attained the age of fifteen years do not take a direct part in hostilities.
- 3. States Parties shall refrain from recruiting any person who has not attained the age of fifteen years into their armed forces. In recruiting among those persons who have attained the age of fifteen years but who have not

attained the age of eighteen years, States Parties shall endeavour to give priority to those who are oldest.

- 4. In accordance with their obligations under international humanitarian law to protect the civilian population in armed conflicts, States Parties shall take all feasible measures to ensure protection and care of children who are affected by an armed conflict.

Article 39

States Parties shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts. Such recovery and reintegration shall take place in an environment which fosters the health, self-respect and dignity of the child.

Article 40

- 1. States Parties recognize the right of every child alleged as, accused of, or recognized as having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others and which takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society.
- 2. To this end, and having regard to the relevant provisions of international instruments, States Parties shall, in particular, ensure that:
 - (a) No child shall be alleged as, be accused of, or recognized as having infringed the penal law by reason of acts or omissions that were not prohibited by national or international law at the time they were committed;
 - (b) Every child alleged as or accused of having infringed the penal law has at least the following guarantees:
 - (i) To be presumed innocent until proven guilty according to law;
 - (ii) To be informed promptly and directly of the charges against him or her, and, if appropriate, through his or her parents or legal guardians, and to have legal or other appropriate assistance in the preparation and presentation of his or her defence;
 - (iii) To have the matter determined without delay by a competent, independent and impartial authority or judicial body in a fair hearing according to law, in the presence of legal or other appropriate assistance and, unless it is considered not to be in the best interest of the child, in particular, taking into account his or her age or situation, his or her parents or legal guardians;
 - (iv) Not to be compelled to give testimony or to confess guilt; to examine or have examined adverse witnesses and to obtain the participa-

tion and examination of witnesses on his or her behalf under conditions of equality;

- (v) If considered to have infringed the penal law, to have this decision and any measures imposed in consequence thereof reviewed by a higher competent, independent and impartial authority or judicial body according to law;
 - (vi) To have the free assistance of an interpreter if the child cannot understand or speak the language used;
 - (vii) To have his or her privacy fully respected at all stages of the proceedings;
3. States Parties shall seek to promote the establishment of laws, procedures, authorities and institutions specifically applicable to children alleged as, accused of, or recognized as having infringed the penal law, and, in particular:
 - (a) The establishment of a minimum age below which children shall be presumed not to have the capacity to infringe the penal law;
 - (b) Whenever appropriate and desirable, measures for dealing with such children without resorting to judicial proceedings, providing that human rights and legal safeguards are fully respected.
 4. A variety of dispositions, such as care, guidance and supervision orders; counselling; probation; foster care; education and vocational training programmes and other alternatives to institutional care shall be available to ensure that children are dealt with in a manner appropriate to their well-being and proportionate both to their circumstances and the offence.

Article 41

Nothing in the present Convention shall affect any provisions which are more conducive to the realization of the rights of the child and which may be contained in:

- (a) The law of a State Party; or
- (b) International law in force for that State.

PART II

Article 42

States Parties undertake to make the principles and provisions of the Convention widely known, by appropriate and active means, to adults and children alike.

Article 43

1. For the purpose of examining the progress made by States Parties in achieving the realization of the obligations undertaken in the present Convention, there shall be established a Committee on the Rights of the Child, which shall carry out the functions hereinafter provided.
2. The Committee shall consist of ten experts of high moral standing and recognized competent in the field covered by this Convention. The members of the Committee shall be elected by States Parties from

among their nationals and shall serve in their personal capacity, consideration being given to equitable geographical distribution, as well as to the principal legal systems.

3. The members of the Committee shall be elected by secret ballot from a list of persons nominated by States Parties. Each State Party may nominate one person from among its own nationals.
4. The initial election to the Committee shall be held no later than six months after the date of the entry into force of the present Convention and thereafter every second year. At least four months before the date of each election, the Secretary-General of the United Nations shall address a letter to States Parties inviting them to submit their nominations within two months. The Secretary-General shall subsequently prepare a list in alphabetical order of all persons thus nominated, indicating States Parties which have nominated them, and shall submit it to the States Parties to the present Convention.
5. The elections shall be held at meetings of States Parties convened by the Secretary-General at United Nations Headquarters. At those meetings, for which two thirds of States Parties shall constitute a quorum, the persons elected to the Committee shall be those who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.
6. The members of the Committee shall be elected for a term of four years. They shall be eligible for re-election if renominated. The term of five of the members elected at the first election shall expire at the end of two years; immediately after the first election, the names of these five members shall be chosen by lot by the Chairman of the meeting.
7. If a member of the Committee dies or resigns or declares that for any other cause he or she can no longer perform the duties of the Committee, the State Party which nominated the member shall appoint another expert from among its nationals to serve for the remainder of the term, subject to the approval of the Committee.
8. The Committee shall establish its own rules of procedure.
9. The Committee shall elect its officers for a period of two years.
10. The meetings of the Committee shall normally be held at United Nations Headquarters or at any other convenient place as determined by the Committee. The Committee shall normally meet annually. The duration of the meetings of the Committee shall be determined, and reviewed, if necessary, by a meeting of the States Parties to the present Convention, subject to the approval of the General Assembly.
11. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under the present Convention.

12. With the approval of the General Assembly, the members of the Committee established under the present Convention shall receive emoluments from United Nations resources on such terms and conditions as the Assembly may decide.

Article 44

1. States Parties undertake to submit to the Committee, through the Secretary-General of the United Nations, reports on the measures they have adopted which give effect to the rights recognized herein and on the progress made on the enjoyment of those rights:
 - (a) Within two years of the entry into force of the Convention for the State Party concerned;
 - (b) Thereafter every five years.
2. Reports made under the present article shall indicate factors and difficulties, if any, affecting the degree of fulfillment of the obligations under the present Convention. Reports shall also contain sufficient information to provide the Committee with a comprehensive understanding of the implementation of the Convention in the country concerned.
3. A State Party which has submitted a comprehensive initial report to the Committee need not, in its subsequent reports submitted in accordance with paragraph 1 (b) of the present article, repeat basic information previously provided.
4. The Committee may request from States Parties further information relevant to the implementation of the Convention.
5. The Committee shall submit to the General Assembly, through the Economic and Social Council, every two years, reports on its activities.
6. States Parties shall make their reports widely available to the public in their own countries.

Article 45

In order to foster the effective implementation of the Convention and to encourage international co-operation in the field covered by the Convention:

- (a) The specialized agencies, the United Nations Children's Fund, and other United Nations organs shall be entitled to be represented at the consideration of the implementation of such provisions of the present Convention as fall within the scope of their mandate. The Committee may invite the specialized agencies, the United Nations Children's Fund and other competent bodies as it may consider appropriate to provide expert advice on the implementation of the Convention in areas falling within the scope of their respective mandates. The Committee may invite the specialized agencies, the United Nations Children's Fund, and other United Nations organs to submit reports on the implementation of the Convention in areas falling within the scope of their activities;
- (b) The Committee shall transmit, as it may consider appropriate, to the specialized agencies, the United Nations Children's Fund and other competent bodies,

any reports from States Parties that contain a request, or indicate a need, for technical advice or assistance, along with the Committee's observations and suggestions, if any, on these requests or indications;

- (c) The Committee may recommend to the General Assembly to request the Secretary-General to undertake on its behalf studies on specific issues relating to the rights of the child;
- (d) The Committee may make suggestions and general recommendations based on information received pursuant to articles 44 and 45 of the present Convention. Such suggestions and general recommendations shall be transmitted to any State Party concerned and reported to the General Assembly, together with comments, if any, from States Parties.

PART III

Article 46

The present Convention shall be open for signature by all States.

Article 47

The present Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article 48

The present Convention shall remain open for accession by any State. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 49

1. The present Convention shall enter into force on the thirtieth day following the date of deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession.
2. For each State ratifying or acceding to the Convention after the deposit of the twentieth instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after the deposit by such State of its instrument of ratification or accession.

Article 50

1. Any State Party may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate the proposed amendment to States Parties, with a request that they indicate whether they favour a conference of States Parties for the purpose of considering and voting upon the proposals. In the event that, within four months from the date of such communication, at least one third of the States Parties favour such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of States Parties present and voting at the conference shall be submitted to the General Assembly for approval.

2. An amendment adopted in accordance with paragraph 1 of the present article shall enter into force when it has been approved by the General Assembly of the United Nations and accepted by a two-thirds majority of States Parties.
3. When an amendment enters into force, it shall be binding on those States Parties which have accepted it, other States Parties still being bound by the provisions of the present Convention and any earlier amendments which they have accepted.

Article 51

1. The Secretary-General of the United Nations shall receive and circulate to all States the text of reservations made by States at the time of ratification or accession.
2. A reservation incompatible with the object and purpose of the present Convention shall not be permitted.
3. Reservations may be withdrawn at any time by notification to that effect addressed to the Secretary-General of the United Nations, who shall then inform all States. Such notification shall take effect on the date on which it is received by the Secretary-General.

Article 52

A State Party may denounce the present Convention by written notification to the Secretary-General of the United Nations. Denunciation becomes effective one year after the date of receipt of the notification by the Secretary-General.

Article 53

The Secretary-General of the United Nations is designated as the depositary of the present Convention.

Article 54

The original of the present Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

In witness thereof the undersigned plenipotentiaries, being duly authorized thereto by their respective Governments, have signed the present Convention.

Annex 2

List of Relevant United Nations Commission on Human Rights Special Rapporteurs, and Special Representatives and Independent Experts

Country Specific Procedures

Special Rapporteurs:

Afghanistan	Mr Choong-Hyun Paik (Republic of Korea)
Burundi	Mr Paolo Pinheiro (Brazil)
Cuba	Mr Carl J. Groth (Sweden)
Equatorial Guinea	Mr Alejandro Artucio (Uruguay)
Iraq	Mr Max van der Stoep (Netherlands)
Myanmar	Mr Rajsoomer Lallah (Mauritius)
Palestinian territories occupied since 1967	Mr Hannu Halinen (Finland)
Rwanda	Mr René Dégni-Ségui (Côte d'Ivoire)
Sudan	Mr Gáspár Bíró (Hungary)
Territory of the Former Yugoslavia	Ms Elizabeth Rehn (Finland)
Zaire	Mr Roberto Garretón (Chile)

Special Representative of the Secretary-General:

Iran (Islamic Republic of)	Mr Maurice Copithorne (Canada)
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Thematic Procedures

Special Rapporteurs:

Freedom of opinion and expression	Mr Abid Hussain (India)
Sale of children, child prostitution and child pornography	Ms Ofelia Calcetas-Santos (Philippines)
Torture and other cruel, inhuman degrading treatment or punishment	Mr Nigel Rodley (United Kingdom of Great Britain and Northern Ireland)
Violence against women, its causes and consequences	Ms Radhika Coomaraswamy (Sri Lanka)

Technical Cooperation Programme

Independent Experts:

Guatemala	Ms Mónica Pinto (Argentina)
Haiti	Mr Adama Dieng (Senegal)
Somalia	Ms Mona Rishmawi (Jordan)

Special Representative of the Secretary-General:

Cambodia	Mr Thomas Hammarberg (Sweden)
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Annex 3

Relevant Commission and Sub-Commission Documents in the Context of HIV/AIDS-Related Discrimination

UN Commission on Human Rights

Resolutions:

- 1990/65 of 7 March 1990
- 1992/56 of 3 March 1992
- 1993/53 of 9 March 1993
- 1994/49 of 4 March 1994
- 1995/44 of 3 March 1995
- 1996/53 of 15 April 1996

Reports:

- The Rights and Humanity Charter on HIV and AIDS (E/CN.4/1992/82)
- Report of the Secretary-General on positive international and national measures taken to protect human rights and prevent discrimination in the context of HIV/AIDS (E/CN.4/1995/45)
- Report of the Secretary-General on Human Rights and HIV/AIDS submitted in accordance with Commission resolution 1995/44 (E/CN.4/1996/44)

UN Sub-Commission on the Prevention of Discrimination and Protection of Minorities

Resolutions and decisions:

- 1989/17 of 18 August 1989
- 1990/118 of 30 August 1990
- 1991/109 of 29 August 1991
- 1992/108 of 27 August 1992
- 1993/31 of 25 August 1993
- 1994/29 of 26 August 1994
- 1995/21 of 24 August 1995
- 1996/33 of 29 August 1996

Reports:

- Preliminary report by the Special Rapporteur on discrimination against HIV-infected people or people with AIDS (E/CN.4/Sub.2/1991/10)
- Progress report by the Special Rapporteur on discrimination against HIV-infected people or people with AIDS (E/CN.4/Sub.2/1991/10)
- Final report by the Special Rapporteur on discrimination against HIV-infected people or people with AIDS (E/CN.4/Sub.2/1992/10)
- Conclusions and recommendations by the Special Rapporteur on discrimination against HIV-infected people or people with AIDS (E/CN.4/Sub.2/1993/9)
- Report of the Secretary-General on development in the United Nations system concerning HIV/AIDS (E/CN.4/Sub.2/1994/8)

Annex 4

Communication Procedures

Model Communication

(model form for the reporting of alleged human rights violations communications)

Communication to:

Date: _____

The Human Rights Committee
c/o Centre for Human Rights
United Nations Office
8-14 avenue de la Paix
1211 Geneva 10, Switzerland

submitted for consideration under the Optional Protocol to the International Covenant on Civil and Political Rights.

I. Information concerning the author of the communication

Name: _____

First name(s): _____

Nationality: _____

Profession: _____

Date and place of birth: _____

Present address: _____

Address for exchange of confidential correspondence (if other than present address):

Submitting the communication as:

- (a) Victim of the violation or violations set forth below
- (b) Appointed representative/legal counsel of the alleged victim(s)
- (c) Other

If box (c) is marked, the author should explain:

- (i) In what capacity he is acting on behalf of the victim(s) (e.g. family relationship or other personal links with the alleged victim(s)):
- (ii) Why the victim(s) is (are) unable to submit the communication himself (themselves):

An unrelated third party having no link to the victim(s) cannot submit a communication on his (their) behalf.

II. Information concerning the alleged victim(s) (if other than the author)

Name: _____ First name(s): _____

Nationality: _____ Profession: _____

Date and place of birth: _____

Present address or whereabouts: _____

III. State concerned/articles violated/domestic remedies

Name of the State party (country) to the International Covenant and the Optional Protocol against which the communication is directed: _____

Articles of the International Covenant on Civil and Political Rights allegedly violated: _____

Steps taken by or on behalf of the alleged victim(s) to exhaust domestic remedies – recourse to the courts or other public authorities, when and with what results (if possible, enclose copies of all relevant judicial or administrative decisions): _____

If domestic remedies have not been exhausted, explain why: _____

IV. Other international procedures

Has the same matter been submitted for examination under another procedure of international investigation or settlement (e.g. the Inter-American Commission on Human Rights, the European Commission on Human Rights)? If so, when and with what results? _____

V. Facts of the claim

Detailed description of the fact of the alleged violation or violations (including relevant dates)¹ _____

Author's signature _____

¹ Add as many pages as needs for this description

Annex 5

**Excerpts from WHO/GPA letters
to United Nations treaty bodies
detailing HIV/AIDS-related human
rights issues under the relevant
international instruments**

Note: the following excerpts detail various HIV-related human rights issues to be addressed by United Nations Committees under four major human rights treaties. The texts are extracts from letters sent by WHO/GPA during 1994/1995 to the Human Rights Committee, the Committee on Economic, Social and Cultural Rights, the Committee on the Elimination of Discrimination Against Women, and the Committee on the Rights of the Child, respectively.

Annex 5(a)

Possible Issues to be addressed by the United Nations Human Rights Committee in the Context of HIV/AIDS

Article 2

Non-discrimination and implementation at the national level

The Commission on Human Rights and the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities has confirmed that the term *other status* includes health status, including HIV/AIDS (Commission on Human Rights Resolution 1995/44 and Sub-Commission Resolution 1995/21). Thus, no one should be discriminated against on the basis of HIV/AIDS or suspicion of it. However, persons living with HIV/AIDS, their families and associates are often discriminated against in the exercise of their rights, due to their health status. Furthermore, existing discrimination against certain disadvantaged groups increases their vulnerability to the risk of HIV infection, as well as the likelihood that they will be targeted for coercive measures, such as mandatory testing, arbitrary arrest, segregation, detention and deportation. Such groups include women, children, minorities and indigenous populations, those living in poverty, migrants and other aliens, men who have sex with men, sex workers, and injecting drug users.

1. Have laws been reviewed so as to ensure that they do not contain discriminatory provisions against people living with HIV/AIDS or suspected of it, including disadvantaged and vulnerable groups?
2. Have national authorities (judicial, legislative, administrative, public health) utilized the public health limitation appropriately in the context of HIV/AIDS?
3. What specific measures have been taken to protect persons living with HIV/AIDS or suspected of it from discrimination in the exercise of the rights under the Covenant?
4. If they do not already exist, has consideration been given to the development of laws to protect the disabled against discrimination, and has HIV/AIDS been included in the definition of "disabled"?
5. What special measures have been implemented to ensure that disadvantaged and vulnerable groups are not discriminatorily denied access to HIV/AIDS prevention education, information and health services?

Article 3

Right to equality between men and women

The highest rates of infection are now occurring among women and girls. Biological, social, political and economic

factors, including existing discrimination against women in all aspects of their lives, increases the vulnerability of women and girls to HIV infection and intensifies the impact the disease has on them. In particular, women and girls often suffer from inequality in access to HIV/AIDS education and information, means of prevention, and health services. In the context of reproductive health care, they are often subject to hidden or mandatory testing for HIV, and if found HIV positive, to coerced abortions and sterilization. Their unequal status in sexual, marital and reproductive relations make it difficult or impossible to negotiate safe sex. Their unequal status with regard to property and inheritance rights, as well as access to employment, credit and social support, make it difficult or impossible to end relationships that threaten them with infection. The sexual violence and coercion they suffer increase their vulnerability. They carry a disproportionate share of caring for the sick, whether or not infected themselves, and often have no means to support the family if they are abandoned due to infection or if they lose their husband to AIDS.

1. Have discriminatory laws, policies and practices (e.g. those regarding marital, property, inheritance, social support, reproductive rights) which *inter alia* increase the vulnerability of women and girls to HIV/AIDS been identified and reformed?
2. What specific measures have been employed to ensure equal protection of HIV/AIDS-affected women and girls from discrimination in the exercise of the rights under the Covenant?
3. What measures have been taken to modify or eliminate prejudices, stereotypes and harmful customary and traditional practices, including female genital mutilation, which may increase the vulnerability of women and girls to HIV infection?

Article 6

Right to life

As an incurable disease with high rates of transmission and devastating personal and social impact, HIV/AIDS presents an urgent and compelling threat to the right to life. However, States often do not take sufficient positive measures to ensure the protection of the right to life, including the prevention of epidemics such as HIV and the prolongation of life, such as the lives of those living with HIV/AIDS. Furthermore, people living with HIV/AIDS or merely suspected of it may be subject to violence, including

the arbitrary deprivation of their lives, due to the fear and stigma associated with HIV/AIDS.

1. Have States given sufficient priority and urgency to developing the means by which to prevent further transmission, provide health care and support for those affected, and reduce the impact of HIV/AIDS?
2. Have sufficient resources been allocated for the development and implementation of HIV/AIDS prevention, care and support programmes?
3. Have means been employed to curtail the ignorance, discrimination and stigma which result in violence against and loss of life of people living with HIV/AIDS or suspected of it, including bringing the perpetrators of such acts to justice?

Article 7

Right to freedom from torture, cruel, inhuman or degrading treatment

People living with HIV/AIDS are often segregated in schools and hospitals, including under cruel and degrading conditions. Cases of degrading treatment are particularly significant in prisons where inmates are often mandatorily tested, and if found HIV-positive, isolated or put in solitary confinement, often without their basic needs being met, including access to sufficient medical care. People living with HIV/AIDS or those suspected people may be subject to medical or scientific experimentation and/or testing and treatment without their informed consent.

1. Have measures being taken to protect people living with HIV/AIDS from degrading treatment in educational, medical and penal institutions?
2. Are complaints of degrading treatment reported by people living with HIV/AIDS effectively investigated and followed up, with victims being given access to effective remedies, including compensation?
3. Have positive measures, including the development of ethical accountability and review processes, been taken to protect people living with HIV/AIDS or suspected of it from compulsory or hidden medical or scientific treatment?

Article 8

Freedom from slavery, servitude and forced or compulsory labour

Women and children who are subject to trafficking and forced prostitution are extremely vulnerable to HIV/AIDS both because they have little or no access to HIV prevention information or means nor can they avoid unsafe sex. Women and children sold or forced into marriage, servitude or bonded labour may also be unable to avoid coerced sex or rape which threatens them with infection with HIV.

1. What measures are being taken to protect women and children from trafficking, forced prostitution, forced marriage or servitude?
2. Have marital, property and employment laws and practices been reviewed so that they do not support

practices that result in slavery or servitude-like conditions that inter alia increase vulnerability to HIV/AIDS?

Article 9

Right to liberty and security

In the context of HIV/AIDS, deprivations of liberty and security are often taken in the name of public health and take the form of compulsory blood tests, arrest, detention, segregation, isolation or "rehabilitation", on account of being HIV-positive or suspected of it. Thus, it is presumed that an HIV-positive person will engage in behaviour that will put others at risk of infection. This is contrary to the WHO position that there is no public health rationale to justify isolation or quarantine, based solely on the fact that a person is suspected or known to be HIV-positive. This is because HIV is spread almost entirely through identifiable behaviours subject to individual control, and in most instances, requires the active participation of two people. It is not spread through casual, routine contact. For these reasons, WHO maintains that persons suspected or known to be HIV-positive should remain integrated in society and integrated within institutional settings (schools, hospitals, prisons). Furthermore, because deprivations of liberty in the context of HIV/AIDS are often taken in the name of public health and occur in administrative settings, procedural and judicial safeguards are not applied. Persons belonging to certain groups, such as commercial sex workers, injecting drug users and men having sex with men, are often deprived of liberty because they are suspected of HIV infection.

1. What measures are taken to protect persons living with HIV/AIDS or suspected of it from arbitrary deprivations of liberty and security of person?
2. Is the public health rationale for deprivation of liberty being appropriately defined and used in the context of deprivations of liberty due to HIV/AIDS status?
3. What procedural and judicial safeguards exist for persons deprived of their liberty due to HIV/AIDS status? Is compensation in the case of violation of the right to liberty and security available to persons living with HIV/AIDS?

Article 10

Rights of people deprived of their liberty

Due to ignorance concerning the nature of transmission of the disease and to general lack of health services in prisons, detainees living with HIV/AIDS or suspected of it are often subject to mandatory testing; lack of confidentiality; harassment and violence; denial of access to work, education, leisure and conjugal visits; isolation and segregation; and denial of adequate health care and basic services. All detainees, including children, should have access to the same HIV prevention information, education, means (condoms, bleach, clean needles), health care as is made available in the community; and detainees living with HIV/AIDS should not suffer discrimination due to their HIV status.

1. Are detainees given access to the same HIV prevention information, education, means (condoms, bleach, clean

needles), health care as is made available in the community?

2. Are detainees living with HIV/AIDS granted the same rights as other detainees?
3. Are detainees living with HIV/AIDS protected from discrimination, mandatory testing, loss of confidentiality, violence, isolation, and denial of services, including health care, in prisons?
4. Have prison officials developed and implemented specific policy and procedures relating to HIV/AIDS?

Article 12

Freedom of movement

Some States require that nationals returning to their country submit themselves to HIV testing. Other States restrict movement of nationals and aliens living with HIV/AIDS within their countries, through segregation, quarantine, or "rehabilitation". Such measure are often imposed on persons suspected of HIV, such as migrants from certain countries, commercial sex workers and injecting drug users. Over 50 States impose some form of HIV screening with regard to the entry and stay of aliens for either short or long-term periods. States implementing such restrictions argue that they are either necessary to protect the public health or to avoid costs associated with HIV/AIDS. However, travel/movement restrictions divert resources from prevention programmes, create a false sense of security, and do not reduce the spread of infection. With regard to costs, HIV/AIDS is often singled out for discriminatory treatment versus comparable diseases and applied automatically without reference to the likelihood of costs being actually incurred by the State. In addition to the principle of non-discrimination, these restrictions may interfere with other rights, such as family unity and the principle of non-refoulement.

1. Does mandatory testing and/or entry restrictions exist for returning nationals?
2. Does the State apply some form of mandatory HIV screening for aliens seeking to enter or remain in a State?
3. Are people living with HIV/AIDS free to move within the country or are they segregated into particular areas and/or quarantined?
4. What measures are being taken to protect the right to seek and enjoy asylum as well as the principle of non-refoulement for asylum-seekers and refugees living with HIV/AIDS?
5. What measures ensure the protection of family unity for aliens whose family is affected by HIV/AIDS seeking to enter or remain in a State?

Article 13

Rights of aliens lawfully on the territory

Aliens living with or suspected of HIV/AIDS often face the threat of expulsion. Such expulsions may be carried out in the name of public health under administrative procedures without adequate procedural safeguards. During such expulsions, confidentiality of health status may not be

maintained either with regard to the expelling or receiving States.

1. Are aliens with HIV/AIDS given full procedural safeguards concerning their expulsion?
2. Are procedures in place to ensure confidentiality of health status during expulsions?

Article 14

Equality before the courts

Ignorance concerning the routes of transmission, as well the association of HIV with certain types of behaviour (prostitution, homosexuality, drug use) have led to discrimination against persons living with HIV/AIDS before the courts. In certain instances, the the defendant's access to the courtroom has been limited or denied because of fears that the defendant is contagious. Moreover, judges, attorneys and juries can be influenced by a defendant's HIV status if the principle of confidentiality is not observed. Furthermore, requests to prohibit public and press from judicial proceedings in order to protect confidentiality of health status have been denied.

1. Are all possible measures taken to guarantee equal opportunity to a fair trial to persons living with HIV/AIDS, including safeguards against discrimination and appropriate confidentiality where necessary?
2. Is appropriate education and training in the area of HIV/AIDS-related legal and ethical issues given to the judicial personnel?

Article 15

Criminal offences

People living with HIV or suspected of it who have been found guilty of criminal offenses have been given harsher sentences than similarly convicted persons without HIV, thus reflecting the discrimination which occurs in the context of HIV/AIDS. Furthermore, criminal provisions regarding the intentional or negligent exposure of others to HIV have suffered from insufficient precision in terms of legal certainty and foreseeability, as well from problems of proof and discriminatory implementation.

1. What measures have been taken to protect accused persons living with HIV from discrimination in the context of the criminal justice system?
2. Have laws criminalizing exposure to HIV been drafted and implemented in a manner to meet requirements of legal certainty and foreseeability?

Article 17

Right to privacy

It is particularly important that the right to privacy be protected in the context of HIV/AIDS where association with HIV/AIDS results in prejudice, stigma and discrimination, including loss of family, home, employment, health care and social support. Thus, the collection of information of HIV/AIDS status and its publication or use without the informed consent of the individual is a serious breach of the right to privacy. This might take the form of compulsory registration of HIV-positive people or those suspected of it,

compulsory collection and storage of information on HIV/AIDS status without confidentiality, and the disclosure of HIV status to third parties. Furthermore, mandatory testing, a medical intervention without informed consent, is an invasion of privacy. This may occur due to government policies, occur in health care settings as part of routine or hidden testing, or be required by private parties, such as employers, for access to services. Though often done in the name of public health, mandatory testing, registration and publication of status have been rejected as useful public health measures because they do not prevent transmission of the disease and because they drive people away from HIV prevention and care programmes.

1. Have laws, policies and practices involving mandatory testing been identified and reformed?
2. Are measures in place in governmental, institutional and data-collection settings to protect the confidentiality of HIV status and provide for its disclosure only with the consent of the individual?
3. Are the privacy rights of certain groups, such as women, children, migrants, refugees, prisoners, men having sex with men, commercial sex workers, injecting drug users, protected in the context of HIV/AIDS?
4. Do those whose privacy is breached in the context of HIV/AIDS have an effective remedy against those responsible?

Article 19

Right to freedom of expression

In the context of HIV/AIDS, the right to seek, receive and impart information has often been denied or curtailed, because information about HIV/AIDS is politically unpopular and/or perceived to conflict with obscenity laws or with religious, moral or cultural norms. For these reasons, governments have been reluctant to disseminate information pertaining to the extent of the problem, the population groups most affected, and the ways by which to avoid infection. Women, children, minorities, migrants, indigenous populations, and other vulnerable groups, do not have equal access to the information that is available. Such censorship prevents people from obtaining life-saving information, increases vulnerability to infection, and increases the devastating social impact of the disease, including the discrimination and stigma associated with it. On the other hand, information regarding HIV status or suspected status of individuals or groups has been disclosed by governments, the media and private parties in breach of confidentiality and has incited public discrimination against those affected.

1. Is the HIV/AIDS-related information disseminated by government, medical, professional groups, NGOs adequate for effective prevention and care programmes?
2. What measures have been taken to ensure that people at all levels of society, including vulnerable groups, have access to HIV/AIDS-related education and information programmes?

3. Have measures been taken to find ways to overcome legal, religious, moral and cultural barriers to the dissemination of information on HIV/AIDS?
4. What measures are in place to protect people from the damaging publication of information concerning HIV/AIDS status?

Article 23

Protection of the family

Regarding family unity, situations in which the family unit is split increase vulnerability to infection, e.g. where receiving countries do not allow migrant workers to bring family members. Furthermore, some families have been split by policies whereby HIV-positive family members are segregated, placed in quarantine, or in the case of children, taken from their HIV-positive parent(s). Regarding the right to marry, some jurisdictions require mandatory HIV tests before granting a marriage licence, thus denying those who test positive the right to marry. Regarding the right to found a family, mandatory or hidden HIV-testing may be performed on women who present themselves for pre-natal care. Those who test positive may be coerced into abortions or sterilization. Public health concerns are better served by providing to people considering marriage or childbirth information, counselling and voluntary testing so that they can take steps to protect themselves from infection and can make informed reproductive choices. Regarding equal rights and responsibilities of spouses, women who lose their husband to AIDS or are abandoned because of their own HIV status often do not have means of support for themselves and their children and may lose custody of their children, due to discriminatory marital, property, inheritance, and custody laws and practices.

1. Do measures exist to ensure the unity of the family and are HIV-positive members protected against arbitrary separation, segregation, quarantine or deportation?
2. Is mandatory pre-marital testing for HIV and/or mandatory testing of pregnant women required, and if so, with what consequences? What measures are being taken to eliminate such practices if they exist? Are steps being taken to make pre-marital and pre-natal counselling and voluntary HIV testing available to all couples/women?
3. Have discriminatory marital, property, inheritance, and custody laws and practices been reformed so as to inter alia ensure support for family members affected by HIV/AIDS?

Article 24

Rights of children

As one of the most vulnerable groups, children should be given special protection in terms of both reducing vulnerability to infection and to the social impact of the disease. This is especially the case for girls who in some locales are infected at a rate more than double that of boys and who bear a disproportionate burden of care for affected family members. Yet due to their status as children, children are often: subject to mandatory testing and lack of confidentiality; have less access to HIV prevention educa-

tion, health services and means of prevention, and to legal protection; and if HIV-positive, suffer discrimination, including denial of education, abandonment by families, and rejection by social service providers, including adoption agencies.

1. To what extent have measures been taken to reduce the vulnerability of children by ensuring access to HIV/AIDS-related education, both inside and outside schools, health care and means of prevention, such as condoms?
2. To what extent have measures been taken to reduce the impact of HIV/AIDS on children by reducing the discrimination HIV-positive children face and ensuring care and support for children and families affected by HIV/AIDS, including those who are abandoned, living on the streets or working in the sex trade?
3. Have special measures of protection been taken with regard to children at risk from trafficking, sexual abuse and sexual exploitation?
4. Are measures being taken to eliminate mandatory testing of children? What measures are being taken to ensure the confidentiality of a child's status during testing, care and treatment?
5. Do sufficient measures exist for protecting children orphaned by HIV/AIDS?

Article 25

Right to participation in political and public life at the national and international level

It has long been recognized that people living with HIV/AIDS and groups with particular vulnerability, such as women, children, minorities, men having sex with men, commercial sex workers and injecting drug users, must be active and vocal partners in the response to HIV/AIDS. Nevertheless, these people, who may already be marginalized in society, do not have equal access to participation in the development and implementation of policy concerning all aspects of the response to the epidemic. Nor do they have support so as to enable them to advocate for their specific needs in the context of HIV/AIDS; and to form political, legal and social alliances and support groups that can address the challenges posed by HIV/AIDS.

1. What measures have been taken to ensure the inclusion of people living with HIV/AIDS and other groups affected in the development and implementation of HIV/AIDS policy and programmes?

2. Is support being given to the formation and networking of groups concerned with HIV/AIDS issues?

Article 26

Right to equality before the law and equal protection of the law

Because of ignorance regarding the modes of transmission and the stigma and prejudice associated with HIV/AIDS, people living with HIV/AIDS or suspected of it are denied equality before the law in many areas regulated by the State or in the hands of private parties. These include education, employment, health care, insurance, housing, liberty, marriage, travel, privacy, social services and support. The denial of equality takes the form of discriminatory legislation, policy and practice by public authorities, as well as discriminatory practice by parties. Legislation specifically protecting people from discrimination in the context of HIV/AIDS does not exist in many countries.

1. Have laws, policies and practices been reviewed so as to ensure that they do not result in denial of equality before the law for people living with HIV/AIDS or suspected of it in areas regulated by the State?
2. Have States adopted special legislation ensuring equal treatment for people with HIV/AIDS in all aspects of their lives?
3. Have measures been taken to protect people living with HIV/AIDS from denial of equality by private parties?

Article 27

Rights of minorities

Minorities, indigenous peoples, refugees and migrants are among the most vulnerable groups with regard to both infection by and the impact of HIV/AIDS. Cultural, social, linguistic and legal barriers, and a lack of appropriate and specifically targeted programmes mean that many of these groups do not have sufficient access to HIV/AIDS prevention education and information, health care and treatment.

1. What measures are being taken to ensure the provision of targeted and culturally appropriate HIV/AIDS prevention programmes to minority groups, refugees, migrants and indigenous populations?
2. What measures are being taken to ensure that such groups are not discriminated against in access to prevention programmes, health care services and treatment?

Annex 5(b)

Possible Issues to be addressed by the Committee on Economic, Social and Cultural Rights in the Context of HIV/AIDS

Article 2(1)

Progressive realization

In light of the rapid rate of transmission and the devastating impact of HIV/AIDS, States Parties should be queried as to the priority and urgency given to allocation of resources for measures by which to prevent further transmission, provide care and support for those affected, and reduce the impact of the disease.

Article 2(2)

Non-discrimination

The Sub-Commission on the Prevention of Discrimination and the Protection of Minorities has confirmed that the term *other status* should include health status, including HIV/AIDS (E/CN.4/Sub.2/1994/L.42). Thus, no one should be discriminated against on the basis of HIV/AIDS or suspicion of it. However, persons living with HIV/AIDS, their families and associates are often discriminated against in the exercise of their rights, including those in the Covenant of Economic, Social and Economic Rights. Furthermore, existing discrimination against certain disadvantaged groups increases their vulnerability to the risk of HIV infection. Such groups include women, children, minorities and indigenous populations, those living in poverty, migrants, men who have sex with men, commercial sex workers, and injecting drug users.

1. Have laws been reviewed so as to ensure that they do not contain discriminatory provisions in the context of HIV/AIDS?
2. What specific measures have been employed to protect persons living with HIV/AIDS or suspected of it from discrimination in the exercise of the rights under the Covenant?
3. What special measures have been implemented to ensure that disadvantaged groups are not discriminatorily denied access to HIV/AIDS prevention and care programmes?

Article 3

Equal rights of men and women

The highest rates of infection are now occurring among women. This is because women are particularly vulnerable to infection due to biological, social, political and economic reasons. This includes the facts that in many countries women suffer from lack of access to HIV/AIDS education,

prevention, care and health services and are unable to negotiate safe sex for social/economic reasons. Commercial sex workers also suffer from discrimination and lack of access to programmes due to criminalization of sex work. Sexual violence against women, including rape, coerced sex, sexual abuse, trafficking and forced prostitution also increase vulnerability. Women living with HIV/AIDS are often driven from their homes and/or are abandoned without any social support. To a greater extent than men, women also bear the burdens of caring for those infected.

1. What special measures have been taken to ensure women's equal access to HIV/AIDS prevention, care and health services?
2. With regard to marital, property and social benefit laws, are women sufficiently protected so that they can terminate relationships that threaten them with HIV/AIDS infection and/or be protected if they are abandoned or divorced due to their being HIV positive?
3. What measures are being taken to reduce sexual violence against women?
4. What measures are being taken to ensure social support systems for women and families affected by HIV/AIDS so as to cope better with the burdens of the disease?
5. What measures are being taken to ensure that commercial sex workers have access to prevention and care programmes and can negotiate safe sex with their clients?

Articles 6 and 7

Right to work and to just and favourable conditions of work

The rights to employment and to just and favourable conditions of work are often violated with regard to persons living with HIV/AIDS or those suspected of infection. As people living with HIV/AIDS pose no public health risk, healthy seropositive persons should face no disadvantage with regard to employment or the workplace. People with symptomatic AIDS should be treated the same as those with any other illness. However, people living with HIV/AIDS may be subject to mandatory testing as a condition to being hired and to mandatory testing during employment, followed by dismissal if found to be HIV positive. They may also experience harassment, discrimination, and segregation in the workplace, as well as the arbitrary denial of employment benefits.

1. Are there any distinctions, exclusions, restrictions or preferences, in law or administrative practices, made on the basis of HIV/AIDS status which have the effect of nullifying or impairing the enjoyment of equality of opportunity or treatment in employment or occupations, in particular regarding recruitment, mandatory testing as a condition of employment, arbitrary dismissal or denial of employment benefits?
2. If so, what measures are taken to eliminate these measures and protect HIV/AIDS-affected persons from such discrimination? Are any measures being taken by States Parties to eliminate third party discrimination in the context of the workplace?
3. Under domestic legislation, is HIV/AIDS considered a disability, thereby granting to persons with HIV/AIDS or suspected of it the protections granted to persons with disabilities?
4. Do States Parties and/or private employers require pre-employment mandatory testing for otherwise qualified non-citizens seeking to enter a State for purpose of employment?

Article 9

Right to social security

Discrimination against those affected by HIV/AIDS (both those infected and their families and associates) may take the form of denial of access to social benefits, including social security and social insurance.

1. Do HIV/AIDS-affected persons have equal access to social security and social insurance?
2. If so, indicate which of the following elements of social security are accessible to HIV/AIDS-affected persons: medical care; cash sickness benefits; invalidity benefits; survivors' benefits; unemployment benefits; family benefits
3. If HIV/AIDS-affected persons do not enjoy the right to social security, what measures are taken to eliminate this inequality?

Article 10

Protection of the family, mothers and children

Women and children are among the most vulnerable groups at risk of HIV infection. Children, like women as outlined above, often do not have access to HIV/AIDS-related education, prevention, care and health programmes. Like women, children's vulnerability to infection is increased by trafficking, forced prostitution, sex exploitation, inability to negotiate safe sex, sexual abuse, and harmful traditional practices. HIV positive women and their children are often driven from their homes without access to support. Children of persons who have died of AIDS or are HIV positive may be often abandoned, and/or rejected by orphanages. With regard to founding a family, pre-marital mandatory testing may be required before allowing persons to enter into marriage. Pregnant women may be subject to mandatory testing, and if found positive, coerced into abortions and/or involuntary sterilization.

1. Given the fact that children and women are among the most vulnerable groups at risk of HIV infection, to what extent have special measures been taken to protect both groups from this risk? What are these measures?
2. Describe special measures of protection and assistance with regard to women and children at risk of sexual exploitation.
3. Indicate whether measures of protection and assistance exist for HIV/AIDS-affected abandoned women and orphans.
4. Indicate whether mandatory pre-marital testing for HIV is required and whether pregnant women are subject to mandatory testing, and if so, with what consequences?

Article 11

Right to an adequate standard of living, including food, clothing and housing

Those affected by HIV/AIDS often cannot maintain an adequate standard of living because they lose their jobs, cannot find further employment, are evicted from their homes, and/or are not allowed to rent or buy. Furthermore, those living in poverty lack access to prevention information and education, to health care services, as well as lack the ability to act on information about HIV/AIDS.

1. Have special measures been taken to protect the right to an adequate standard of living for persons affected by HIV/AIDS?
2. Have measures been taken to provide those living in poverty with adequate information, education and health care services regarding HIV/AIDS?
3. Have measures been taken to protect those affected by HIV/AIDS from discriminatory housing policies, such as eviction, denial of access, refusal to sell, rent or provide financing; and to protect people from third parties practising such discrimination?

Article 12

Right to the enjoyment of the highest attainable standard of physical and mental health

As an incurable disease with high rates of transmission and devastating personal and social impact, HIV/AIDS presents an urgent and compelling threat to the rights to life and to health. However, States Parties often do not devote sufficient resources to prevention and care programmes. Furthermore, those infected by HIV/AIDS and their families not only face the physical and emotional anguish of a painful and incurable condition, but also face discrimination in the form of denial of access to health care services and medical treatment. As outlined above, disadvantaged groups have inequitable access to HIV/AIDS-related health care, prevention education and information, condoms and drugs. They also suffer disproportionately the impact of the disease in terms of having less access to social support systems that will alleviate the burdens and to drugs that will ameliorate their condition.

1. Have sufficient resources been given to prevention and control of HIV/AIDS?

2. Do persons living with HIV/AIDS suffer discrimination in access to health-care services? What measures are undertaken to improve or protect this access?
3. What special measures are being taken to ensure that disadvantaged groups have full and equal access to HIV/AIDS-related prevention information and education, condoms, and health care services?
4. Are any special measures being taken to ensure that the benefits of drug-therapy and research are equitably distributed throughout the society?

Article 13 **Right to education**

For social, cultural or political reasons, HIV/AIDS prevention education and information is often not disseminated publicly and not included in school curricula or in programmes for children outside of school. If it is available,

disadvantaged groups have less access to it. Furthermore, though they pose no public health risk, people living with HIV/AIDS, including children, or people suspected of HIV infection, may be expelled from educational institutions or denied access to these institutions due to being infected or being suspected of being infected.

1. Given the crucial importance of HIV/AIDS prevention information and education, what measures are taken to ensure the dissemination of HIV/AIDS-related education/information, including in national school curricula?
2. What special measures are being taken to ensure that disadvantaged groups have adequate access to HIV prevention education and information?
3. What measures are being taken to eliminate the discriminatory denial of education to children and others living with HIV/AIDS?

Annex 5(c)

Possible Issues to be addressed by the United Nations Committee on the Elimination of Discrimination against Women in the Context of HIV/AIDS

Articles 1 to 5, Article 15 Non-discrimination and equality

The Sub-Commission on the Prevention of Discrimination and the Protection of Minorities recently confirmed that no one should be discriminated against on the basis of health status, including HIV/AIDS (ECN.4/SUB.2/1994/L.42). However, women living with HIV/AIDS and their families are often discriminated against in the exercise of their rights, including those in the Convention on the Elimination of All Forms of Discrimination against Women. The phrase “any other field” in the definition of the term “discrimination against women” as outlined in Article 1 should include health status, including HIV/AIDS. Furthermore, existing discrimination against women, prejudices, customary practices and stereotypes may increase the vulnerability of women and girls to the risk of HIV infection.

1. Have laws, policies and practices been reviewed so as to ensure that they do not result in discrimination against women and girls in the context of HIV/AIDS?
2. What specific measures have been employed to protect HIV/AIDS-affected women and girls from discrimination in the exercise of the rights under the Convention?
3. What measures have been taken to modify or eliminate prejudices, customary practices and stereotypes which may increase the vulnerability of women and girls to HIV infection?

Article 6 Suppression of trafficking and exploitation of prostitution of women

All non-consensual sex and sexual violence against women and girls, including rape, coerced sex, sexual abuse, trafficking, forced prostitution and harmful traditional practices increase their vulnerability to infection. Sex workers often lack access to prevention and care programmes due to discrimination against them and criminalization of sex work. Even where they have such access they often do not have the power to negotiate safe sex.

1. What specific measures of protection and assistance are being taken with regard to women and girls at risk of HIV infection due to non-consensual sex and sexual violence?
2. What measures are being taken to ensure that sex workers have access to HIV/AIDS prevention and care

programmes and to condoms and can negotiate safe sex with their clients?

Articles 7 and 8 Right to participate in political and public life at the national and international level

As the rates of HIV infection among women and girls continue to spiral upwards, it is crucial for women, including women living with HIV, to participate fully in the development and implementation of policy concerning all aspects of the response to the epidemic at both the national and international levels; to advocate for their specific needs in this response; and to empower themselves by forming, political, legal and social alliances and support groups that can address the challenges the epidemic poses for them.

1. What measures have been taken so as to ensure the inclusion of women, including women living with HIV, in the development and implementation of policy and programmes established to address the issues posed by HIV/AIDS?
2. Have formal steps been taken to ensure that women and women's groups are represented in the National AIDS Programme?
3. Is there any special support being given to the formation and/or networking of women's groups, including women living with HIV, which would address HIV/AIDS issues related to women?

Article 10 Education

For social cultural or political reasons, HIV/AIDS prevention education and information is often not disseminated publicly, is not included in school curricula or in educational programmes for people outside of school, and is not made available in health care settings. When it is available, women and girls often have less or no access to it. Furthermore, though they pose no public health risk, people living with HIV/AIDS, or people suspected of HIV infection, including women and girls, may be expelled from educational institutions or denied access to these institutions due to being infected or being suspected of being infected.

1. Given the crucial importance of HIV/AIDS prevention information and education, what measures are taken to ensure the dissemination of HIV/AIDS-related preven-

tion education/information, including in national school curricula?

2. What special measures are being taken to ensure that women and girls have access to HIV prevention education and information?
3. What measures are being taken to eliminate the discriminatory denial of education to women and girls living with HIV/AIDS and the denial of teaching posts to women living with HIV/AIDS?

Article 11

Employment and Social Security

The rights to employment, to just and favourable conditions of work, and to social security are often violated with regard to persons living with HIV/AIDS or those suspected of infection. As people living with HIV/AIDS pose no public health risk, healthy seropositive people, should face no disadvantage with regard to employment or the workplace. People with symptomatic AIDS should be treated the same as those with any other illness. However, people living with HIV/AIDS may be subject to mandatory testing as a condition to being hired and to mandatory testing during employment, followed by dismissal if found to be HIV positive. They may also experience harassment, discrimination, and segregation in the workplace, as well as the arbitrary denial of social security and other employment benefits. Because of existing discrimination against them, women living with HIV/AIDS may face these problems in the workplace to an exacerbated degree.

1. Are there any laws, policies or practices, based on HIV status, which have the effect of nullifying or impairing the enjoyment of equality of opportunity or treatment in employment or occupations, in particular regarding recruitment, mandatory testing as a condition of employment, arbitrary dismissal or denial of social security or employment benefits? Do women living with HIV suffer from these more than men?
2. If so, what measures are taken to eliminate these measures and protect HIV/AIDS-affected persons, including women, from such discrimination? Are any measures being taken by States Parties to eliminate third party discrimination in the context of the workplace?
3. Under domestic legislation, is HIV/AIDS considered a disability, thereby granting to men and women living with HIV/AIDS or suspected of it the protections granted to persons with disabilities, including the requirement that employers make reasonable accommodations to accommodate the needs of employees living with HIV/AIDS?
4. Do HIV/AIDS-affected women have equal access to social security and social insurance? If so, indicate which of the following elements of social security are accessible to HIV/AIDS-affected women: medical care; cash sickness benefits; invalidity benefits; survivors' benefits; unemployment benefits; family benefits.

5. If HIV/AIDS-affected women do not enjoy the right to social security, what measures are taken to eliminate this inequality?

Article 12

Health care

As an incurable disease with high rates of transmission and devastating personal and social impact, HIV/AIDS presents an urgent and compelling threat to the rights to life and to health. However, States Parties often do not devote sufficient resources to prevention and care programmes, particularly with regard to the special needs of women and girls. Furthermore, those infected by HIV/AIDS and their families not only face the physical and emotional anguish of a painful and incurable condition, but also face discrimination in the form of denial of access to health care services and medical treatment. Women have inequitable access to HIV/AIDS-related prevention education and information, health-care service, including services to treat sexually transmitted diseases, condoms and drugs that will ameliorate their condition.

1. Have sufficient resources been given to programmes for prevention and care in the context of HIV/AIDS?
2. What special measures are being taken to ensure that women and girls have equal access to HIV/AIDS-related prevention information and education, condoms, health care services, including services for the treatment of sexually-transmitted diseases, and to drugs?
3. Do women and girls living with HIV/AIDS suffer discrimination in access to healthcare services and drugs? What measures are undertaken to improve or protect this access?

Article 13

Economic and social life

Women living with HIV/AIDS or affected by it due to the illness and/or death of husband or children need access to economic and social opportunities and support which they often do not have because of discrimination against them. This results in their destitution as the disease destroys their resources and/or their ability to procure a living. Though they pose no public health risk, people living with HIV/AIDS are often discriminatorily denied participation in recreational activities, sports and aspects of cultural life. Travel restrictions are often imposed against people living with or suspected of HIV/AIDS.

1. Have laws, policies and practices been reviewed so as to ensure that women affected by HIV/AIDS have access to family benefits, bank loan, mortgages and other forms of credit? Are these women being discriminatorily denied these?
2. What measures are being taken to ensure financial and social support systems for women and families affected by HIV/AIDS so as to cope better with the burdens of the disease?
3. Are women and girls living with HIV/AIDS discriminatorily denied participation in recreational, sports and cultural activities?

4. Do States Parties and/or private employers/institutions require HIV testing for otherwise qualified non-citizens seeking to enter a State for various purposes, e.g. tourism, employment, education, asylum?

Article 14

Rural women

Rural women may be more vulnerable to HIV/AIDS infection and to the impact of the disease because they suffer from greater isolation, higher levels of stereotyping, and harmful traditional practices, and less access to education, employment opportunities, health care and social benefits.

1. Are States locating HIV/AIDS prevention education and information programmes and health care services in rural and isolated areas?
2. What measures are States taking to ensure access to these by women in rural areas?
3. What measures are States taking to ensure that women in rural areas participate in policy formulation and implementation with regard to HIV/AIDS in their communities?

Article 16

Equality in marriage and family relations

Young girls are biologically more vulnerable to infection than older women. Therefore where tradition, practice or law allow or promote marriage or sexual relations for immature girls vulnerability is increased. With regard to the right to marry and found a family, some jurisdictions require mandatory HIV tests before allowing persons to enter into marriage. Pregnant women may be subject to mandatory testing and if found positive, coerced into abortions and/or involuntary sterilization. Pregnant women living with HIV/AIDS may be denied pre-and post-natal health care. Many women who know or suspect that their husband or partner

is infected are unable to negotiate safe sex, refuse sex or leave the relationship for fear of violence or abandonment/divorce. Many women who are abandoned/divorced because they are infected or suspected of being infected or whose husband dies of AIDS have no rights upon dissolution of the relationship, have no access to any form of support and may lose custody of their children as well. The result is often a life of poverty and/or sex work.

Keeping in mind the contents of the Committee's General Recommendation on equality in marriage and family relations, adopted at its 1994 session, the Committee may consider raising the following questions:

1. Is mandatory pre-marital testing for HIV or mandatory testing of pregnant women required and if so, with what consequences? What measures are being taken to eliminate such practices where they exist?
2. Are pregnant women living with HIV/AIDS protected against coerced abortions and involuntary sterilizations?
3. Are steps being taken to make available to pregnant women counselling and voluntary HIV testing, as well as access to drugs which may reduce perinatal transmission, where available and affordable?
4. Are steps being taken to ensure that pregnant women living with HIV/AIDS who choose to have the child are not discriminatorily denied access to available health care for themselves and their children?
5. Have laws, policies and practices been reviewed and reformed so as to allow women the ability to terminate relationships, including marriage, have access to support upon termination, and maintain custody of children where this is in the best interests of the children?
6. Are there special efforts to provide care and support for women and families trying to cope with the social, medical, and economic burdens of HIV/AIDS?

Annex 5(d)

Possible Issues to be addressed by the United Nations Committee on the Rights of the Child in the Context of HIV/AIDS

GENERAL PRINCIPLES

Article 2

Non-discrimination

The Sub-Commission on the Prevention of Discrimination and the Protection of Minorities has confirmed that the term *other status* should include health status, including HIV/AIDS (E/CN.4/Sub.2/1994/L.42). Thus, no child should be discriminated against on the basis of HIV/AIDS or suspicion of it. However, children living with HIV/AIDS, that is, infected by it, and their families are often discriminated against in the exercise of their rights, including those in the Convention on the Rights of the Child. Furthermore, existing discrimination against certain disadvantaged groups, such as children of minorities, indigenous peoples, migrants, refugees; street children; and children involved in the sex trade or in injecting drug use, limits their access to HIV/AIDS prevention and care programmes and thereby increases their vulnerability to the risk of HIV infection. Girl children face even greater discrimination in these terms than boy children.

1. Have laws, policies and practices been reviewed so as to ensure that they do not result in discrimination against children or their families living with HIV/AIDS?
2. What specific measures have been employed to protect HIV/AIDS-affected children from discrimination in the exercise of the rights under the Convention?
3. What special measures have been implemented to ensure that children, including girl children, are not discriminatorily denied access to HIV/AIDS prevention and care programmes?
4. Have special measures been taken to ensure that children of disadvantaged groups have access to HIV/AIDS prevention and care programmes?

Article 3

Best interests of the child

States should be encouraged to raise awareness among public and private social welfare institutions, courts of law, administrative and legislative bodies about the special needs and problems of HIV/AIDS-affected families and children. Such awareness should ensure that the best interests of children with regard to HIV/AIDS are clearly articulated and duly taken into account.

1. Has the State established a multi-sectoral commission which can consider steps to be taken to implement the best interests of children in the context of HIV/AIDS?
2. How is information on the best interests of children in the context of HIV/AIDS disseminated throughout relevant agencies, organs and groups in society?

Article 4

Measures for implementation /

Article 6

Right to life, survival and development

In light of the rapid rate of transmission among children and the devastating impact of HIV/AIDS on them, States should be queried as to the priority and urgency given to allocation of resources for measures by which to prevent further transmission, provide care and support for children and families affected by HIV/AIDS, and reduce the impact of the disease.

CIVIL RIGHTS AND FREEDOMS

Article 9

Separation from parents /

Article 18

Parental responsibility

Though there is no public health rationale for it and it violates the rights of those involved, some jurisdictions isolate, segregate or detain persons living with HIV/AIDS. These policies may result in children being separated from their parents or families.

1. Have States repealed policies and practices regarding the unjustified isolation, segregation and detention of people living with HIV/AIDS?
2. What measures are taken to support families affected by HIV/AIDS so that family unity can be maintained and parents living with HIV/AIDS are better able to cope and care for their children?

Article 13

Freedom of expression /

Article 17

Access to information

For social, cultural, political or religious reasons, HIV/AIDS prevention information and education is often not dis-

seminated publicly and not included in school curricula or in programmes for children outside of school. This is so even though such information and education is vital to the protection of the lives and health of children.

1. Given the crucial importance of HIV/AIDS prevention education and information, what measures are taken to ensure that children have access to appropriate HIV/AIDS-related education and information?
2. If cultural or religious reasons are cited as barriers to dissemination, what measures are being taken to overcome these barriers and find means by which such information is disseminated in a culturally appropriate and effective manner?

Article 16

Right to privacy and confidentiality

Due to existing prejudice, stigma and discrimination attached to HIV/AIDS, the right to privacy, including confidentiality with regard to one's HIV status, is of crucial importance both to protect the dignity of children affected by HIV/AIDS and for the implementation of effective prevention and care programmes. Mandatory testing and public exposure of HIV status have proven to drive those vulnerable to HIV/AIDS and those already affected away from such programmes. Any testing for HIV should be voluntary and done with the informed consent of the person involved. In the case of children, parents or legal guardians should provide informed consent, with due regard for the child's views if the child is of an age or maturity to have such views. Given the complexity of the issues involved and the possible trauma of a positive result, voluntary testing should be performed with pre-and post test counselling. It is in the context of pre-test counselling that informed consent should be obtained.

1. Are there existing laws, policies or practices which permit children to be mandatorily tested? If so, what measures are being taken by the State to eliminate mandatory testing of children?
2. Are there special provisions for obtaining informed consent in the case of testing of children? Is pre-and post test counselling provided?
3. What measures are being taken to ensure the confidentiality of children's status during voluntary testing, testing for blood safety, surveillance testing, notification procedures, care and treatment? Has a policy on confidentiality in these areas been clearly articulated, disseminated and enforced?

BASIC HEALTH AND WELFARE/FAMILY ENVIRONMENT AND ALTERNATIVE CARE

Articles 20 and 21

Alternative child care/foster care/adoption

Children may be orphaned or in need of foster care due to the death of parents, the inability of the family to cope with the emotional and financial burdens posed by the disease, or stigma which has resulted in the child who is infected or suspected of it being abandoned by the family. Orphaned

children who are infected will need considerable care and treatment, which creates additional financial and emotional burdens for adoptive families, foster care or orphanages. These burdens and/or stigma may result in HIV/AIDS orphans being rejected for placement in homes or in institutions.

1. Given the preference of placing orphans in non-institutional settings, what measures are taken to support placement of children orphaned by HIV/AIDS in extended family environments, adoptive families or foster care?
2. With regard to services provided by child welfare and adoption agencies and institutions, what measures are taken to prevent discrimination against children, both infected and suspected of infection?
3. What measures are taken to protect HIV/AIDS orphans from mandatory testing and to protect the confidentiality of their status?

Article 23

Rights of disabled children

Given the clinical, social and cultural elements of HIV/AIDS, including the discrimination and stigma which surround it, it is often assumed erroneously by employers and providers of services that people with HIV/AIDS are unable to perform and/or should be rejected due to their status. For this reason, several States have included HIV/AIDS as a disability under current disability laws. Doing so either supplements existing legislation which protects people with HIV/AIDS against discrimination or plays a key role in this protection.

Does the State include HIV/AIDS and the suspicion of it under disability laws thereby precluding discrimination against children with HIV/AIDS on the basis of disability?

Articles 24 and 25

Access to health care

As an incurable disease with high rates of transmission and devastating personal and social impact, HIV/AIDS presents an urgent and compelling threat to the rights to life and to health of children. However, it is not always clear that States are devoting sufficient resources to prevention and care programmes designed for children. Nor do they take steps to ensure that children have access to HIV/AIDS-related prevention education and information, family planning and counselling, condoms, health care services, including those for sexually transmitted diseases, and ameliorative drugs. Girl children face much more difficulty having access to the se. Furthermore, children infected by HIV/AIDS not only face the physical and emotional anguish of a painful and incurable condition, but often face discrimination in the form of denial of health care services and medical treatment. Children of disadvantaged families and groups also suffer disproportionately the impact of the disease, because these families have less access to social support systems that will alleviate the burdens and to drugs that will ameliorate their condition.

1. What special measures are being taken to ensure that children, including girl children, have access to HIV/AIDS-related prevention education and information, family planning and counselling, health care services, including those for sexually transmitted diseases, condoms and ameliorative drugs?
2. What special measures are taken to ensure access for children from disadvantaged families or groups, such as children of minorities, migrants, refugees, indigenous peoples; children involved in the sex trade or in drug use; and street children?
3. Do children infected by HIV/AIDS suffer discrimination in access to HIV/AIDS health-care services and medical treatment? What measures are undertaken to improve or protect this access?
4. What measures are being taken to ensure that HIV-positive pregnant women and teen-agers have access to education and information on possible perinatal HIV transmission and transmission through breast milk, and access to appropriate reproductive health care before, during and after pregnancy?

Article 26

Right to social security

Discrimination against those affected by HIV/AIDS may take the form of denial of access to social benefits, including social security and social insurance. This may be a particular problem for women and girls widowed by HIV/AIDS or divorced or abandoned because they are infected or suspected of it.

1. Do HIV/AIDS-affected children and their families have equal access to social security and social insurance? What measures are taken to eliminate any discrimination that may exist?
2. Which of the following elements of social security are accessible to HIV/AIDS-affected children and their families: medical care; cash sickness benefits; invalidity benefits; survivors' benefits; unemployment benefits; family benefits.

Article 27

Adequate standard of living

Children whose families are affected by HIV/AIDS may not be able to maintain an adequate standard of living. Economic hardship may result from discrimination against HIV-infected parents who may lose their jobs and access to social benefits because of their HIV status and/or it may result from the AIDS-related death of one or both parents. Girl wives may be abandoned by their husbands, children with HIV/AIDS may be abandoned by their families, and uninfected children may leave their families if the family is facing stigma and discrimination due to HIV/AIDS. These factors may lead to children being institutionalized or forced to a life on the streets.

1. What measures are taken to provide HIV/AIDS-affected families with adequate support and care?
2. What measures are taken to provide support and care to children with HIV/AIDS or suspected of it who are

abandoned, living on the streets or working in the sex trade?

EDUCATION, LEISURE AND CULTURAL ACTIVITIES

Article 28

Right to education

For social, cultural or political reasons, HIV/AIDS prevention education is often not included in school curricula or in programmes for children outside of school. This is the case even though studies have shown that sex education, including the provision of HIV/AIDS-related information, not only does not encourage sexual activity but actually may delay the onset of sexual activity. If prevention education is available, disadvantaged groups have less access to it. Furthermore, though they pose no public health risk, children living with HIV/AIDS or suspected of HIV infection may be expelled from educational institutions or denied access to these institutions due their sero-status or suspected status.

1. What measures are taken to ensure the dissemination of HIV/AIDS-related education to children both in school and out of school?
2. What measures are being taken to eliminate the discriminatory denial of education to children living with HIV/AIDS or suspected of it?

Article 30

Right to enjoy one's own culture

Minorities, indigenous peoples, refugees and migrants are among the most vulnerable groups with regard to HIV/AIDS. Cultural, social and linguistic barriers, and a lack of appropriate and specifically targeted programmes mean that many of these groups do not have access to HIV/AIDS prevention education and information, health care and treatment.

1. What measures are being taken to ensure the provision of targeted and culturally appropriate HIV/AIDS prevention programmes to minority groups, refugees, migrants and indigenous populations?
2. What measures are being taken to ensure that such groups are not discriminated against in access to prevention programmes, health care services and treatment?

Article 31

Right to rest and leisure

Though they pose no public health risk, children infected by HIV/AIDS may face discrimination and stigmatization in leisure and recreational activities. These children are often banned from exercising sports and other leisure activities in schools, clubs, etc.

1. What measures are taken to ensure children living with HIV/AIDS the right to participate in sports and recreational activities?

2. Are measures taken to provide schools and recreational/sports institutions with adequate HIV/AIDS information in the context of sports and recreation?

SPECIAL PROTECTION MEASURES

Often children's vulnerability to infection is increased by trafficking, forced prostitution, sex exploitation, inability to negotiate safe sex, sexual abuse, use of injecting drugs, and harmful traditional practices.

States Parties should be requested to describe special measures of protection and assistance with regard to children at risk of HIV infection due to the factors outlined above, under the terms of the following Articles of the Convention:

Article 16 – Right to protection against arbitrary or unlawful interference/attacks

Article 19 – State measures for the protection against child abuse

Article 22 – State responsibilities with regard to refugee children

Article 32 – Right to protection from economic exploitation and harmful occupation

Article 34 – Right to protection from sexual exploitation and abuse

Article 37 – Right to protection from torture or other cruel, inhuman or degrading treatment or punishment

